Center for Political Accountability Newsletter December 2012

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Founder's Column: A Minefield for Politically Engaged Corporations

By Bruce Freed, CPA President

Layer by Byzantine layer, government and news media investigators are tearing down some of the facades that have been erected to hide the secret financing of elections. In doing so, they're offering a vivid lesson about risks to corporations of participating in this shadowy world of campaign finance.

In this space last month, I mentioned California officials' investigating what they called the largest case of "campaign money laundering" in state history, tied to an $11 million campaign donation to oppose Gov. Jerry Brown's tax initiative.

Now we learn from an in-depth Bloomberg article that Americans for Responsible Leadership, the

CPA Annual Survey: 2012 Mutual Fund Votes on Corporate Political Spending

The Center for Political Accountability reported that mainstream mutual funds' support for political disclosure resolutions declined slightly in 2012 to an average of 34 percent, compared to a record high of 35 percent a year earlier.

CPA reviewed the nine-year voting record of 40 of the largest mutual fund families. They have voting power over $2.7 trillion in U.S. securities, and they hold great influence over companies' approaches to corporate governance.

The mutual fund families were examined for their support of shareholder resolutions that asked for disclosure of political spending based on CPA's model resolution.

"Not surprisingly for a presidential election year, political disclosure came under fierce attack in 2012. Taking this into account, we virtually held our ground in terms of support from mutual funds for corporate political disclosure," said Bruce Freed, CPA president.

In one of the most striking findings, CPA reported that five fund families supported corporate political disclosure more than 80 percent of the time in 2012. They were Morgan Stanley, MFS, DWS Investment, AllianceBernstein and Wells Fargo. In addition, 13 mutual fund families supported disclosure at least 50 percent of the time in 2012.

Leading the way in support for corporate political disclosure resolutions was AllianceBernstein. It voted on 20 such resolutions and supported 18 of them, for a 90 percent support rating.

AllianceBernstein was one of two families, along with DWS Investments, showing the greatest increases in support since

group that passed on the $11 million funneled to it from and through other nonprofits, was incorporated by a lawyer from a boutique law firm in Virginia.

The law firm, Bloomberg reports, "specializes in advising organizations that want to participate in the electoral process without disclosing who's paying their bills." This is a growth business. "Rural Law Firm Shields $262 Million in Secret Donations," trumpets the eye-popping Bloomberg headline.

Consider the major political players getting legal or other kinds of help from the firm: They include the American Future Fund, the Koch Brothers' Americans for Prosperity and the Karl Rove-linked super PAC American Crossroads and its sister nonprofit group, Crossroads GPS.

There are credible reports in Washington that Crossroads GPS has directly solicited Washington offices of public corporations for political contributions.

If a corporation chooses to outsource their political spending to groups like Crossroads GPS, which refuse to disclose their donors, it is at the cost of transparency and accountability in its public affairs and places it at legal and reputational risk. As we wrote about the new campaign finance landscape in a 2011 article called "Dangerous Terrain":

"Because of their secrecy, advocacy organizations are free to transfer money to other organizations, clouding accountability and the traceability of funds. Such practices only exacerbate secrecy and risk for the companies that contribute to these groups."

the 2011 proxy season. AllianceBernstein backed shareholder resolutions for disclosure of political contributions 90 percent of the time in 2012, compared with a five percent support rate in 2011.

DWS Investments supported 83 percent of all disclosure resolutions in 2012, a dramatic shift compared to no support for disclosure at all in the prior year.

Other highlights of CPA's report on mutual fund voting in the 2012 proxy season included:

- Thirteen of the mutual fund families cast a majority of votes in favor of corporate political disclosure resolutions.
- While abstentions have decreased overall, Fidelity and Pioneer abstained on all corporate political disclosure resolutions in the 2012 proxy season. In previous years a different fund family, Vanguard, had abstained on all such resolutions, but in this year's proxy season it cast votes 'against' five of the 29 resolutions.
- Of 30 fund groups that supported a disclosure resolution in either the 2011 or 2012 proxy season, average support for disclosure declined at 20 funds in 2012, but it increased at 10 funds.

The CPA report was based on data provided by Fund Votes, an independent project started in 2004 that tracks mutual fund proxy voting in the United States and Canada.

Disclosure in the News

New York Attorney General Eric T. Schneiderman will issue regulations next spring requiring many politically active non-profit groups to disclose publicly their political spending and donors, according to New York Times and Los Angeles Times articles.

More than three in four Americans surveyed in a Bloomberg National Poll said they want to see Congress change the law and require outside groups to report their donors publicly. Such groups pumped more than $600 million into efforts to influence the 2012 election.

CPA Issues Summary on Meaningful Disclosure

There also is the danger, we warned, that the money "will be used for purposes that conflict with a company's values and objectives." And there is a risk that amid escalating scrutiny, concern, and yes, even investigations, hidden political spending could become public and harm a company's reputation.

A court can order disclosure even when a noted law firm is fighting it, Americans for Responsible Leadership learned.

Corporations that choose to spend politically through groups cloaked in mystery and unaccountable to anyone not even to their undisclosed benefactors, they operate not, just on "dangerous terrain." It's more like a veritable minefield.

In response to requests by advisory services, companies and shareholders, the Center for Political Accountability issued a one-page summary, available by clicking here, that highlights key components of meaningful corporate disclosure.

"Without any formal reporting template or standard thus far, there has been some confusion on what constitutes meaningful disclosure of corporate political activities," CPA explained in a blog post from the Harvard Law School Forum on Corporate Governance and Financial Regulation. The post was written by CPA President Bruce Freed and Associate Director Sol Kwon.

"In some cases," they wrote, "companies faced with a shareholder resolution on political disclosure got a pass from the proxy advisors who recommended against the proposal when the company disclosed some of its spending, but not levels that would provide shareholders with a meaningful picture."

CPA developed the new summary in order to close the gap and help companies achieve comprehensive political disclosure.

CPA in the Limelight

CPA's Bruce Freed participated in an ISS Governance Exchange webinar Dec. 11 on "Key Issues for 2013: A Look at Environmental and Social Shareholder Proposals." Governance Exchange is an online community exclusively for corporate board directors, institutional investors, corporate consultants, executives and academics.