

Campaigns raise stakes on nonprofits

Untraditional donation channels are expected to gain ground in 2008. They assure anonymity and do not impose caps.

By DAN MORAIN
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When Taco Bell heir Rob McKay and his fellow "investors" gathered in Washington this month to fund start-ups, they weren't looking for the latest idea hatched in some tinkerer's garage.

Instead, the investment partnership known as Democracy Alliance, a group that includes filmmaker Rob Reiner and billionaire George Soros, were looking to be angels to political start-ups. In the 2008 election, their millions could be part of the new thing in politics.

Some major political players are expected to shift their money away from traditional campaign entities in favor of an old standby: the nonprofit. By giving to nonprofits, donors are unfettered by contribution caps that apply when they give directly to candidates. They also can be assured of anonymity.

The law allows nonprofits to be "very aggressive politically, while shielding donors from disclosure," former Federal Elections Commission Chairman Michael E. Toner said. "That is a very attractive combination."

In an election cycle in which top-tier presidential candidates are setting fundraising records, nonprofits offer yet another channel into which money can flow. Politically active nonprofits have been around for years and have gotten involved in past campaigns, particularly state ballot measures. But interest in them generally — and in one type in particular — is increasing as federal regulators crack down on other types of independent campaign organizations.

It is the 501(c)(4), named for the tax code that defines it, that seems to have struck a chord with people looking for new ways to organize their independent fundraising. Financiers who make up Democracy Alliance are among those who have funded

nonprofits in the past and almost certainly will be doing so in the coming year.

Independent campaigns typically don't back specific candidates. Instead, they target candidates' stands on issues, such as immigration, abortion rights, the environment, the Iraq war, and various labor and business questions.

Nonprofits won't be the only path for independent campaigns. Political action committees, controlled by unions, businesses and ideological groups, have been part of the scene for decades. So far this year, PACs raised \$111.2 million, a 9% increase from the same period in 2005, the nonpartisan Campaign Finance Institute reports.

Another type of political organization, the 527, named for the IRS code that defines it, emerged when Swift Boat Veterans for Truth and others spent millions during the 2004 presidential election. Recent filings show that in the first nine months of this year, 527s raised at least \$76 million, up from \$60 million for the same period in the last presidential campaign.

Some donors are shifting away from 527s as federal regulators crack down. But unions remain heavy users. Democratic and Republican governors associations operate through them.

Unlike nonprofits, which are barred from spending a majority of their money on elections, the point of 527s is to get involved in elections. They are not supposed to expressly advocate for or against a candidate, but they can be pointed.

One such group, Stop Her Now, states its goal as "rescuing the American public from the radical ideas of Hillary Clinton." However, it is not advocating for the Democrat's presidential defeat; it's merely "educating the American public," said its spokesman, Joe Turman.

On the flip side, last week John Podesta, chief of staff under President Clinton, incorporated a new 527 called the Fund for America. The Democracy Alliance's McKay and Anna Burger, national political strategist for the Service Employees International Union, are officers in the new group, which is expected to provide money to help elect Democrats.

Campaign money

501(c)(4) groups

- Nonprofit, tax-exempt "social welfare" groups; named for the IRS code section that regulates them.
- Can spend almost half of their funds on political activity; often engage in lobbying and grass-roots efforts.
- Generally cannot back specific candidates; often target issues associated with candidates.
- Donors remain anonymous; public tax returns are filed annually with the IRS.

527 groups

- Tax-exempt groups that raise money for political activities; named for the IRS code section that regulates them.
- Can raise unlimited amounts of soft money for activities such as voter mobilization and issue advocacy.
- Subject to contribution limits if they advocate for or against candidates.
- File regular spending and donor disclosure reports with the IRS.

Political action committees (PACs)

- Raise money for electing or defeating candidates; most represent business, labor or ideological interests.
- Committees may give up to \$5,000 per candidate per election (primary, general, special), \$15,000 annually to national political parties and \$5,000 to another PAC.
- Individuals may give up to \$5,000 to a PAC.
- File regular spending and donor disclosure reports with the Federal Election Commission.

Hard money

- Given by individuals and PACs, subject to federal contribution limits.
- Individuals may give up to \$2,300 to each candidate per election — primary, general or special.
- Corporations and labor unions cannot donate directly to candidates.
- Campaigns file regular reports with the FEC identifying campaign spending and donors of more than \$200 a year.

Sources: *Opensecrets.org*; *Federal Election Commission*; *IRS code*
Graphics reporting by *Nona Yates/Los Angeles Times*

Independent efforts are "going to be a huge deal," California Republican strategist Jim Brulte said. "Control of the federal government is at stake."

Washington lawyer Joseph J. Andrew, former Democratic National Committee chairman, predicted that groups involved in healthcare and energy, sure to be high on the next administration's agenda, would be especially active.

"Stakes are perceived to be

very high," Andrew said.

The wealthy, corporations and unions long have paid for independent campaigns. An individual's donation to federal candidates is capped at \$2,300. But individuals can spend as much as they want on outside efforts, so long as they don't coordinate with candidates. Often, ads aired by independent campaigns are the most pointed.

"This is part of the modern political playbook," said Evan Tracey, chief operating officer of TNS Media Intelligence/Campaign Media Analysis Group, which predicts that up to \$3 billion will be spent on ads in the 2008 campaign.

Tracey said that by restricting direct donations, campaign finance laws simply sent campaign money in different directions: "We crushed one giant cockroach and now we have 60."

A tenet of campaign finance law is disclosure. Disclosure provides insight into who backs

campaigns and why. Candidates, parties, political action committees and 527s reveal donors' identities in filings with the Federal Election Commission or Internal Revenue Service.

By law, nonprofits can keep donors confidential. Although their tax returns are public documents, they contain much less information than campaign finance reports. And because tax returns are filed once a year, money spent in the 2008 election year won't become public until long after votes are counted.

"The law hasn't really caught up with many of these organizations," said Stephen Weissman of the Campaign Finance Institute in Washington.

In a recent report, the Campaign Finance Institute said that nonprofits, such as the AFL-CIO and Focus on the Family Action, spent \$90 million on campaign-related activities in 2006.

"Due to the lack of official disclosure, this is clearly an underestimate," the report said, predicting that "a substantially larger sum of soft money" would be spent in 2008.

New nonprofit groups that are raising millions include Americans United for Change. Largely funded by unions, it has aired ads attacking congressional Republicans who voted against recent healthcare legislation.

Another is Freedom's Watch. Created by former aides to President Bush, it focuses on the war, terrorism and the "emerging threat in Iran," said its president, Bradley Blakeman, a former White House aide. The group opened with a \$15-million campaign supporting Bush's Iraq war strategy.

Freedom's Watch is using traditional campaign techniques, including mail and television and Internet ads. It won't advocate for or against a candidate directly, but it can home in on candidates' positions on issues.

"We're forming a never-ending campaign," Blakeman said. "We're taking on generational issues that are not decided at the ballot box."

Freedom's Watch identifies some but not all of its backers and does not reveal the amount they give. Supporters include former ambassadors, and several are major GOP donors. One, Sheldon Adelson, billionaire chairman of the Las Vegas Sands, gave \$1 million in the last year to former House Speaker Newt Gingrich's 527.

As the 2008 election nears, legal ground shifts. In the last year, the Federal Election Commission has imposed \$2.6 million in fines on seven 527s, finding their past activities violated rules against expressly advocating for or against candidates.

The commission also has begun to look at nonprofits for the

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— EVAN TRACEY
TNS Media Intelligence/
Campaign Media Analysis Group

first time, said Washington political law attorney Ezra W. Reese. The commission has fined some, including the Sierra Club, for their political activity. Such steps could curb political spending — but maybe not.

"A lot of people are going to spend the money and hope for the best," Reese said. "A lot of organizations are looking at FEC fines as a cost of doing business."

Loyola Law School professor Richard L. Hasen said that a recent Supreme Court decision striking down some restrictions on corporate spending could lead to more money for ads typically funded by nonprofits and 527s.

"It is fluid as to where the money is going," Hasen said. "But there is every incentive to spend more this time. . . . Just as the fear of a filibuster-proof Senate could be motivating corporations to spend more, the possibility of a filibuster-proof Senate could be tantalizing for unions."

Meanwhile, investors who make up Democracy Alliance arrived in and left Washington with little notice. Created by a former Clinton White House aide, the group's goal is to counter conservatives who had funded think tanks in past years. Its staff recommends which nonprofits are worthy of investors' money.

Some partners are known. Many are not. The ante for new members is said to be \$1 million. In the 2½ years since its creation, Democracy Alliance's "partners" are estimated to have given \$85 million to organizations, though there is no publicly available accounting. The goal, according to its website, is to build a "more robust, coherent progressive movement."

Democracy Alliance did not release its agenda. Nor did it disclose groups that will probably receive its money. Its executives would not speak publicly.

Why the mystery?

"They're so secretive because there is no point in signaling their strategy to the other side," said Rick Jacobs. Jacobs is the founder of Courage Campaign, the California affiliate of an alliance-funded confederation of state groups that seeks to build online support among liberals. "Why tell them what we're going to do before we do it?"

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contributed to this report.

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