

## He Said / She Said July

Each month The Greater Lansing Business Monthly invites authors from two views — one conservative, one liberal — to share their thoughts on a rotating topic. This month's topic: Should those who contribute money to fund issue-based commercials have to disclose that information?

Written by **Jack McHugh and Shaquila Myers**

### Political Free Speech on the 'Down Escalator'

By **Jack McHugh**

Prominent political philosopher Francis Fukuyama recently warned of a "down escalator" of institutional decay in developed democracies. A stark example in this country is the threat to political free speech represented by the "weaponization" of campaign finance law by political and government careerists practicing "politics by other means."

Recent examples include: The IRS abusing its power to silence opponents of the bipartisan political class; a campaign finance-related political witch hunt in Wisconsin orchestrated by the Milwaukee district attorney's office; using donor disclosure mandates to persecute a prominent gay marriage opponent; and the bullying "investigations" of some Romney donors in 2012 by political operatives responding to a virtual "Will no one rid me of this turbulent priest?" speech by the president of the United States.

The latest threat is a constitutional amendment sponsored by 41 U.S. Senators that would give Congress unlimited authority to regulate "the raising and spending of money and in-kind equivalents with respect to federal elections." One prominent opponent noted how this could be used to ban Sierra Club ads criticizing politicians' environmental policies, NRA voter guides or pastors urging their flock to get out and vote.

Campaign finance regulations were originally pitched as prohibiting straightforward "quid pro quo" deals between special interests and politicians. How far they have expanded is seen in the 2008 prosecution by the federal government of a group of citizens who pooled resources to broadcast a movie critical of Hillary Clinton within 30 days of an election.

Such activities are characterized by activists as "big money in politics" and "corporations buying elections."

Yet had their preferred policy been in place in 1860 it would have led to absurdities like forcing copies of "Uncle Tom's Cabin" off bookstore shelves during that year's presidential campaign.

Justice Brandeis was right, the answer to speech you don't like is "more speech, not enforced silence." The federal judge in a civil rights lawsuit filed by one of the targets in the Wisconsin abuse referenced above scolded the state with a warning. "The larger danger is giving government an expanded role in uprooting all forms of perceived corruption which may result in corruption of the First Amendment itself."

The growing labyrinth of government campaign finance regulation is an institutional "down escalator" for the political free speech rights at the core of this democracy.

### Demand Transparency in Political Messages

By **Shaquila Myers**

Since 2000, more than \$80 million has been spent on issue-based advertising in Michigan alone with little of that money traceable to any particular person or organization. These ads differ from traditional political advertising by talking indirectly about a candidate and their positions rather than stating whether a voter should support the candidate or not.

Due to a loophole in campaign finance law, this type of message is legally considered voter education rather than direct voter advocacy and therefore the donors behind them are not required to be disclosed.

That ruling has opened the floodgates for millions of dollars to pour into these stealth organizations that exist for little or no other purpose than to serve as a legal means

for billionaires and special interest groups to push their agenda outside the boundaries of campaign finance laws.

Last year when Secretary of State Ruth Johnson proposed an administrative rule closing the loophole, Republicans in the Michigan Senate rewrote our laws within hours to both double existing campaign contributions and thwart her efforts to bring greater transparency to the political process.

The use of “dark money” in advertising is not exclusive to Republicans or Democrats, as both parties are guilty of using it in elections, but it is clearly time for it to change. Citizens deserve to know who is contributing to the organizations that are sponsoring these commercials.

According to the Michigan Campaign Finance Network, in the first five months of this year,

nearly \$10 million of the \$12.9 million spent on advertising for the Michigan gubernatorial and U.S. Senate campaigns have come from independent sources and not directly from the campaigns themselves.

Anyone who has seen these types of commercials knows that they are often misleading, overtly negative and do little to restore trust to the political process.

There is no good that comes from allowing this “dark money” to so heavily pollute our political dialogue and arguments that we are powerless to stop it due to it being protected as “free speech” are simply false. We rightfully demand greater transparency from our government in almost every other aspect and it is long past time we do so when it comes to these political messages.