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Drowning in Campaign Cash

Shrill political attacks have saturated the airwaves for months, but behind them is the real problem of this demoralizing election: the dark flow of dollars, often secretly provided by donors with very special interests.

The amount is staggering: Nearly $4 billion is likely to be spent once the final figures are in, according to the Center for Responsive Politics, far more than in the 2006 midterms, which cost $2.85 billion. It could even eclipse the $4.14 billion spent in the 2004 presidential campaign.

Much of this is a direct creation of the Supreme Court under Chief Justice John G. Roberts Jr., which has cut away nearly all campaign finance restrictions.

The court’s 2007 decision in Wisconsin Right-to-Life gave corporations and unions the right to run advocacy ads in the last 60 days of a campaign — as long as they did not expressly advocate the election or defeat of a specific candidate. This year’s Citizens United decision effectively ended even that last restriction, and pulled away all limits on corporate spending in campaigns.

Building on those decisions, political operatives — mainly Republicans — decided they could collect unlimited amounts of money through independent, tax-exempt organizations known as 501(c) groups, without revealing the source of the donations.

By offering anonymity and no limits, these groups (with gauzily apolitical names, like American Future Fund and American Action Network) have been able to raise and spend extraordinary sums. In the 2006 midterms, outside groups not affiliated with political parties spent $51.6 million; so far this year, such groups have spent $280 million. About 60 percent of that spending is from undisclosed donors, most of which has benefited Republicans. Democratic candidates raised huge amounts, but the sources for most of it were disclosed.

Combining both traditional and outside money, Republicans have slightly outraised Democrats, $1.64 billion to $1.59 billion, but there is more to be tallied.
While large secret donations have been legalized, it is not clear that the 501(c) groups spending the money on barrages of attack ads are playing by the last, threadbare rules. The tax code requires that these groups not be “primarily engaged” in political advocacy, but neither the Internal Revenue Service nor the Federal Election Commission has made any apparent effort to investigate what other purpose they might have. Some groups have suggested they would begin nonpolitical activities — after the election.

What is clear is that the new world of unlimited spending, both open and secret, confers huge benefits on wealthy individuals, corporations and unions. In a striking example, reported by ABC News last week, Terry Forcht, a prominent Kentucky banker and nursing home executive, helped pay for a series of attack ads against Attorney General Jack Conway, the Democratic Senate candidate. Mr. Conway is prosecuting one of Mr. Forcht’s nursing homes for allegedly covering up sexual abuse.

Mr. Forcht has directly raised at least $21,000 for Mr. Conway’s Republican opponent, Rand Paul. He serves as the banker for American Crossroads, the shadowy group of nonprofits organized by Karl Rove that has spent nearly $30 million to defeat Democrats and more than $1 million to defeat Mr. Conway.

This year, of course, is just batting practice for 2012. Congress still has time to act. The first step is to pass the Disclose Act, which would require the identification of large campaign donors. The second is to create a public financing system for Congressional candidates that provides extra money to those who rely on small donations.

Voters say — again and again — that they want to break the hold of special interests and end pay-to-play politics. And politicians promise — again and again — that they will. Four billion dollars and one particularly ugly campaign later, there can be no more excuses.