

Report on the Proceedings of the Roundtable on Corporate Political Accountability: The Importance of Educating Future Business Leaders *Post-Citizens United*

February 14-15, 2013

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**CENTER
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Report on “Roundtable on Corporate Political Accountability: The Importance of Educating Future Business Leaders Post-*Citizens United*”

New York University’s Stern School of Business
February 14-15, 2013

A groundbreaking initiative will integrate the teaching of corporate political accountability into the curricula of U.S. business schools. This initiative promotes responsible corporate political participation in the broader context of good corporate governance. It was conceived by scholars, corporate executives and corporate governance experts attending a Roundtable held February 14 and 15, 2013, at New York University’s Stern School of Business.

The “Roundtable on Corporate Political Accountability: The Importance of Educating Future Business Leaders Post-*Citizens United*” was convened by four leading American business and law schools and the Center for Political Accountability. Deans and faculty at these schools identified an urgent need to educate future business leaders about issues of corporate political engagement that did not exist a generation ago. The Supreme Court’s *Citizens United* decision in 2010 rewrote the rules for corporate participation in American politics; in its wake, educators believe it is important to teach current and future corporate leaders how to navigate the new political process responsibly.

The Center for Political Accountability, with nearly a decade of success in advocating for corporate political transparency, was chosen to champion and facilitate the forum and the new education initiative.

At the Roundtable, experts identified these first steps toward a blueprint for teaching corporate political accountability at schools of business and management:

- Create **an online course** on corporate political accountability, accessible for undergraduates, graduate and professional students;
- Convene a **working group** of academics and corporate governance experts to help develop the online course;
- Plan a Corporate Political Accountability **2014 Roundtable**, to engage a broader, national academic audience and to expand consideration of the topic.

Roundtable sponsors include The Stern School of NYU; The Wharton School’s Zicklin Center for Business Ethics Research at the University of Pennsylvania; Baruch College’s Zicklin School of Business; and the Millstein Center for Global Markets and Corporate Ownership at Columbia Law School.

Over two days, top-flight educators, current and former corporate leaders, and corporate governance experts teamed up in a rigorous examination of what CPA President Bruce Freed called “one of the most challenging issues facing companies and our society today: the role, responsibilities and challenges of corporations in the democratic process post-*Citizens United*,” and how business schools “should be teaching the current and future generation of business leaders about corporate political accountability.”

The following report will highlight themes of the Roundtable.

A Compelling Context for Teaching Corporate Political Accountability

The Roundtable focused heavily on the heightened place of the corporation in American political life after the Supreme Court’s *Citizens United* decision, which historically altered the political landscape by lifting most restraints on political spending from corporate and labor union treasuries.

First, however, political science Prof. Jacob S. Hacker of Yale looked several decades back in modern political history. The mobilization of business in the 1970s marked a seminal moment in contemporary American politics, Prof. Hacker said. He pointed to future Supreme Court Justice Lewis Powell Jr.’s writing in a confidential memo in 1971:

“Business must learn the lesson ... that political power is necessary; that such power must be assiduously cultivated; and that when necessary, it must be used aggressively -- without embarrassment and without the reluctance which has been so characteristic of American business.”

Since the 1970s, American politics has been transformed. Today, two major manifestations are the muscular political spending and lobbying activities of major corporations and just-as-aggressive behaviors of their trade associations, he said. (For more information, see Jacob Hacker and Paul Pierson’s book *Winner-Take-All Politics*.)

From a legal standpoint, former Federal Election Commission member Karl Sandstrom described how *Citizens United* dramatically changed the rules for America’s corporate community. Before the ruling, companies were basically restricted to making publicly reported and limited campaign contributions from funds voluntarily donated by individual employees and shareholders to their Political Action Committees (PACs)¹ and were prohibited from political spending from their corporate treasuries. As a result of *Citizens United*, corporations may now tap their own treasuries to make unlimited political expenditures in federal elections directly or indirectly through outside organizations. Because these post-

¹ Political action committees can contribute no more than \$5000 per election to a candidate for Federal office.

Citizens United expenditures can be routed through other organizations, they can escape public reporting.

Citizens United brought sweeping changes not only to the law, but new challenges for companies deciding whether and when to spend money on political engagement. As an example, Sandstrom asked, when government action such as the opening of the Wi-Fi spectrum can generate billions of dollars in revenue and businesses compete for that revenue, how do corporate rivals decide about spending political money responsibly?

Sandstrom also asked how a corporation can ensure that its spending reflects the broader and diverse political interests of their shareholders. This poses an even greater challenge, he noted, for publicly traded companies whose stock is held largely by institutional shareholders with beneficiaries numbering in the tens of millions. A campaign finance system no longer characterized by contributions in the thousands of dollars, but by expenditures in the millions, poses great risks to companies and to our democratic institutions, he said.

A [window on campaign financing](#) in the first full federal election cycle since *Citizens United* was provided by Center for Responsive Politics Executive Director Sheila Krumholz. [She reported](#) that overall spending in the 2012 climbed to about \$6.5 billion, a new record. Independent expenditures exploded to more than \$1 billion.

Meanwhile, hundreds of millions of dollars were expended through nonprofit groups that do not disclose their donors or disclose them only partially, doubling the level of this spending from 2010. While it is impossible to identify the extent of corporate political spending funneled this way, Krumholz noted, it is presumed that corporations prefer to spend political money anonymously rather than risk unfavorable news media coverage about a controversial payment.

[CPA's Freed expanded](#) on this concern about risks. Usage of non-profit 501(c)(4) groups, Super PACs and trade associations to hide political spending is growing and poses risks when companies are unaware where their political contributions will ultimately end up. Companies and directors must know about, and be careful to avoid, growing reputational, business and legal dangers in this new environment, he said.

“These challenges are intensifying as companies face heightened pressures to spend – directly and indirectly, and openly and secretly – and as the media gives closer scrutiny to corporate spending and its consequences,” Freed cautioned.

Because companies are facing greater pressure to be politically engaged, Freed said, business schools have a responsibility to teach the skills needed by corporate leaders to navigate the political process responsibly.

Current Political Accountability Practices at Leading-Edge Companies

Citizens United ushered in a host of new business, legal and ethical challenges related to corporate political spending. To better consider what to teach current and future business leaders about corporate political accountability, the Roundtable examined the current practices of leading-edge companies.

The fullest picture of a company's practices came from Charles Grezlak, Vice President for State Government Affairs and Policy at Merck. The global healthcare company ranked first in the nation, among the top 200 companies of the S&P 500, for corporate political accountability and disclosure in the 2012 CPA-Zicklin Index.

Grezlak identified leading elements to consider in shaping a company's political activity: staking out credible policy positions; communicating with and having a constructive engagement with policy-makers; building coalitions on issues with interested stakeholders; and making political contributions.

Transparency and accountability play a major role in managing corporate political participation. Grezlak spoke about Merck's disclosure policy. On its website, Merck reports its direct and indirect political spending, its decision-making policies, and board oversight. It includes payments to trade associations and other tax-exempt organizations used for political purposes.

Merck's policy has helped the company manage risk and enforce internal discipline. Disclosure serves company executives as an early warning system of contributions that might prove problematic, he said. It can reveal potential conflicts between company values and candidate positions that management should be concerned about.

Merck does not want to engage in political spending that is anonymous. Obtaining spending information from trade associations poses significant challenges, he said. Grezlak has urged trade associations to disclose their political contributions but has not threatened to withdraw Merck's membership in them if they do not.

Merck's political disclosure policy has not caused it to receive more requests for political contributions, or shareholder criticism.

Corporate governance expert Ira M. Millstein, a senior partner at Weil, Gotshal and Manges and founder of the Millstein Center for Global Markets and Corporate Ownership at Columbia Law School, said directors might consider a policy that any trade association or 501(c)(4) group to whom their company contributes be required to disclose its donors and also the recipients of its political expenditures.

Millstein emphasized the key role of a corporate board. When a corporation engages in political spending, the board should report to shareholders that it has adopted broad policy choices governing this spending and that it oversees management's

execution of these policies, he said. Thus the board sets policy, and management executes it, regularly reporting back to the board and providing greater protection to a company's reputation.

[Keynote speaker](#) Leo Hindery Jr., Managing Partner of InterMedia Strategies and a former CEO of AT&T Broadband, painted in broader terms what he considers contemporary corporate responsibility and how educators should address it. Today's business school curriculum must find a "proper balance between corporate political activity and fiduciary responsibility to the nation as a whole; and especially, the imperative of acknowledging multiple constituencies and responsibilities," he said.

"[I]n order for our nation to prosper and our economy to be restored to long-term sustained growth, we need an all-encompassing 'corporate responsibility contract' which again puts the needs of employees, customers, communities and the nation equally alongside the interests of shareholders," Hindery added. "And of course we need to turn the spotlight on corporate political accountability."

Integrating Corporate Political Accountability into the Curriculum

When the Roundtable turned its focus to integrating corporate political accountability into the curriculum, experts discussed questions that will help guide the working group of academics and corporate governance experts assigned to develop a course.

Asking some of the broadest questions to engage students was Prof. Sandra J. Sucher of Harvard Business School. She drew on the model of a 30-session course she teaches that is required of MBA students at Harvard, entitled "Leadership and Corporate Accountability."

The course is designed, [Prof. Sucher explained](#), "to build judgment in making decisions in which ethical considerations play a part, as do legal responsibilities, in making decisions that affect the economic welfare of the firm." Moreover, [the course](#) "is structured to explore the responsibilities that corporations and their leaders have to the stakeholders of the firm: their investors, customers, employees, and the public and commons."

Making the connection to teaching corporate political accountability, Sucher continued, "Corporations and their leaders live in a complex web of responsibilities. So a first way to frame these decisions about politically related spending and activities is to help students picture the web of responsibilities they will live in as business leaders, and the tensions that exist among them."

Drawing on this background, Prof. Sucher offered two sets of questions to engage students in business leaders' involvement in the political process:

“What are the responsibilities of business leaders who engage in the political process? On whose behalf should they be acting? And to what ends?”

“Is political engagement by businesses better understood as buying access and influence or facilitating good government?”

The Roundtable participants also heard discussion about how best to structure the teachings.

Aaron Chatterji, a professor at Duke University’s Fuqua School of Business, [strongly urged](#) that corporate political accountability be built into the core curriculum. He ascribed high importance to the topic, and noted that students who want to specialize may not be exposed to these teachings otherwise.

Educators should not shy from expressing a point of view in this teaching, [contended Amy Sepinwall](#), a professor at The Wharton School. “Given that corporate political spending has the potential to radically remake the rules of the game, I think we can and should be unabashed about challenging it in the classroom,” she said. “I envision a conversation about corporate political spending occurring within the broader confines of a discussion about the nature and purpose of the corporation.... We should invite our students to reflect upon a question too easily overlooked in most business ethics classes – viz., the question of the corporation’s *place* in society.”

Prof. Vic Khanna of the University of Michigan Law School proposed opening the teaching of corporate political accountability with a simple question, “Why should business leaders care?” The relevant motivations reach beyond concern about jail time, he said, to include concern about competitors’ activities and the inevitable interaction that companies have with government.

Judy Samuelson, executive director of the Aspen Institute Business and Society Program, used [a flow chart](#) to spell out the issues that must be considered in developing a corporate political accountability curriculum.

“What do grads need to know, and why?” “How will the change take place?” Who will be the champions for change? What will be some of the strategies – involving networks, elite schools, and eyeing a generational shift – and what will be some of the tactics, such as competitions, prizes and recognition; and will they also include research and case development? These are just a few of the questions Samuelson suggested.

CPA’s Freed, too, posed several questions about the knowledge and skills that business school students ought to possess when they graduate, including the following:

“Are they leaving with an understanding of the Supreme Court’s *Citizens United* decision and the responsibilities it places on companies?”

“And do they understand just how much more complicated life has become for companies – and management and directors – as a result of *Citizens United*?”

APPENDIX I: CORPORATE POLITICAL ACCOUNTABILITY ROUNDTABLE AGENDA

Session I: Why is Corporate Political Accountability Important?

After-Dinner Discussion with Business School Deans: Corporations engaging in politics after Citizens United, and how business schools could demonstrate greater leadership on corporate political accountability

Session II: Case Study: Merck's Adoption of Political Disclosure and Accountability

Session III: Incorporating Corporate Political Accountability in the Business School Curriculum

Session IV: Capacity Building: Lessons to be Learned from Sister Initiatives

APPENDIX II: ROUNDTABLE ORGANIZERS

Bruce Buchanan, Professor of Business Ethics and Director of the Business & Society Program Area, New York University Stern School of Business.

Bruce F. Freed, President, Center for Political Accountability.

Robert Jackson, Professor and Co-Director of the Millstein Center for Global Markets and Corporate Ownership, Columbia Law School.

William S. Laufer, Professor of Legal Studies and Business Ethics and Former Director of The Carol and Lawrence Zicklin Center for Business Ethics Research, The Wharton School of the University of Pennsylvania.

David Rosenberg, Professor and Director of the Robert Zicklin Center for Corporate Integrity, Baruch College Zicklin School of Business.

APPENDIX III: LEADING EDUCATORS

Deans of prominent business schools showed their strong interest in the teaching of corporate political accountability, a new topic, at the Corporate Political Accountability Roundtable in New York. The deans in attendance included:

Former Deputy Dean Janice Bellace of The Wharton School of the University of Pennsylvania, and past president of Singapore Management University; she is Samuel A. Blank Professor of Legal Studies and Business Ethics.

Dean Doug Guthrie, School of Business, The George Washington University; he is Professor of International Business and Professor of Management.

Dean Peter Blair Henry, New York University Stern School of Business; he is William R. Berkley Professor of Economics and Finance.

Dean Moses Pava, Syms School of Business, Yeshiva University.

Associate Dean Donald Schepers, Baruch College Zicklin School of Business; he is Professor of Management.

The professors who spoke at the Roundtable included:

Ronald Berenbeim, Professor, New York University Stern School of Business, UN Principles for Responsible Management Education.

Aaron Chatterji, Professor, Fuqua School of Business, Duke University.

Jacob Hacker, Professor, Professor, Yale University.

Vic Khanna, Professor, University of Michigan Law School.

Amy Sepinwall, Professor, The Wharton School of the University of Pennsylvania

Sandra Sucher, Professor, Harvard Business School.

APPENDIX IV: CORPORATE LEADERS AND CORPORATE GOVERNANCE AND CAMPAIGN FINANCE EXPERTS

To identify current practices and issues at leading-edge corporations, current and former corporate and law leaders participated in the Corporate Political Accountability Roundtable. They included:

Charles Grezlak, Vice President, State Government Affairs and Policy, Merck.

Ben Heineman, Senior Fellow at the Belfer Center for Science and International Affairs at Harvard University's Kennedy School of Government, a distinguished senior fellow at Harvard Law School's Program on the Legal Profession, and former Senior Vice President for Law and Public Affairs, General Electric.

Leo Hindery Jr., CEO, InterMedia Strategies, a private equity investment firm, and author of "It Takes a CEO: It's Time to Lead with Integrity."

Sheila Krumholz, Executive Director, Center for Responsive Politics.

Ira Millstein, Senior Partner, Weil, Gotshal & Manges LLP and Co-Chair, Millstein Center for Global Markets and Corporate Ownership, Columbia Law School.

Judy Samuelson, Executive Director, Aspen Institute Business and Society Program.

Karl Sandstrom, Senior Counsel, Perkins Coie, former member, Federal Election Commission, Counsel, Center for Political Accountability.

Lawrence Zicklin, Retired CEO and Chairman, Neuberger Berman, Professor, New York University Stern School of Business.

APPENDIX V: INTERNATIONAL AGENCIES

Georg Kell, Executive Director, UN Global Compact.

Djordjija Petkoski, Former Head of Business, Competitiveness and Development, World Bank Institute.