



Advocates for Government Accountability

A 501(c)(3) Nonprofit Corporation

June 8, 2012

VIA CERTIFIED MAIL

J. Russell George, Inspector General
Department of the Treasury
Treasury Inspector General for Tax Administration
1125 15th Street, N.W., Suite 700A
Washington, D.C. 20005

RE: Request for Investigation

Dear Inspector General:

We write on behalf of Cause of Action, a nonprofit, nonpartisan public interest organization that uses public advocacy and legal reform strategies to ensure greater transparency in government and protect taxpayer interests and economic freedom.

We are concerned about the risk that lobbying coalitions are exercising political influence without paying taxes under the Internal Revenue Code. In order to avoid the disclosure requirements of the Lobbying Disclosure Act of 1995,¹ many organizations are simply not incorporating. We respectfully request that you immediately investigate these matters.

I. Background

Coalition lobbying, sometimes called “stealth lobbying,” occurs when

[L]ike-minded companies form a loosely knit compact and spend lots of money lobbying the government. The arrangement is legal, but it exposes loopholes that prevent the public from finding out how much money each company pays and whether one business exerts more control over the others.²

According to David Levinthal at the Center for Responsive Politics, “[s]tealth lobbying [organizations] . . . are finding, if not loopholes, then ways around the spirit of the law . . . [c]ompanies that are lobbying Congress are not necessarily disclosing the full strength

¹ 2 U.S.C. § 1601, *et seq.*

² Jim McElhatton, *Obama nominee omitted ties to biotech*, WASH. TIMES, Sept. 8, 2009, available at <<http://www.washingtontimes.com/news/2009/sep/08/obama-nominee-omitted-ties-to-biotech/print/>> (last visited Oct. 19, 2009).

of their lobbying.”³ The Center for Responsive Politics reported lobbying coalitions have spent over \$100 million on lobbying efforts between 1998 and 2006.⁴

In 2002, the Congressional Research Service (CRS) examined lobbyist registration forms, congressional testimony and media databases and found 135 lobbying coalitions for which it could find only limited information or none at all.⁵ According to a *New York Times* article following the CRS report, “[t]hanks to a loophole in the federal lobbying law, some companies and individuals — especially those pursuing controversial or potentially embarrassing causes — are using coalitions to conceal their identities.”⁶

In 1995, Congress passed, and the President signed, the Lobbying Disclosure Act, which provided an exception for coalitions. Section 3, part 2 of the Lobbying Disclosure Act of 1995 states, “[concerning] a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.”⁷ In 2007, the Lobbying Disclosure Act was amended by the Honest Leadership and Open Government Act,⁸ to capture coalition lobbying by requiring disclosure of contributions of more than \$5,000 to a registrant or a client to fund the lobbying activities of the registrant.⁹

But even these recent attempts at greater transparency have proven elusive to ensuring government accountability. For example, Tara O’Toole, the Undersecretary of Science and Technology at the Department of Homeland Security, “never reported her involvement with the lobbying group called the Alliance for Biosecurity in a recent government ethics filing.”¹⁰ The Alliance for Biosecurity (the Alliance) is a membership organization (described as a “coalition” under the Lobbying Disclosure Act) composed of taxable and tax-exempt corporations advised by the Center for Biosecurity at the University of Pittsburgh School of Medicine.¹¹ Since 2005, the Alliance has reportedly spent over \$500,000 lobbying Congress and federal agencies, including the Department of Homeland Security (DHS).

³ *Id.*

⁴ Lindsay Renick Mayer, *Under the Radar*, OPENSECRETSBLOG, (Apr. 12, 2007), available at <<http://www.opensecrets.org/news/2007/04/under-the-radar.html>> (last visited Jan. 15, 2012).

⁵ Alison Mitchell, *Loophole Lets Lobbyists Hide Clients’ Identity*, N.Y. TIMES, (July 8, 2002), available at <http://www.nytimes.com/learning/teachers/featured_articles/20020708monday.html> (last visited Jan. 15, 2012).

⁶ *Id.*

⁷ LOBBYING DISCLOSURE ACT, 2 U.S.C. § 1602(7), P.L. 104-65, §3(7).

⁸ HONEST LEADERSHIP & OPEN GOV’T ACT, P.L. 110-81.

⁹ *Id.* at § 207.

¹⁰ Jim McElhatton, *Obama nominee omitted ties to biotech*, WASH. TIMES, Sept. 8, 2009, available at <http://www.washingtontimes.com/news/2009/sep/08/obama-nominee-omitted-ties-to-biotech/print/> (last visited Oct. 19, 2009).

¹¹ Website, THE ALLIANCE FOR BIOSECURITY, available at <http://www.upmc-biosecurity.org/website/special_topics/alliance_for_biosecurity> (last visited Oct. 1, 2009).

II. The IRS Has Failed To Conduct Any Investigations Of Lobbying Coalition Activities That May Be Inconsistent With The Internal Revenue Code.

By letter dated March 22, 2012, we requested information pursuant to the Freedom of Information Act (FOIA),¹² concerning the Internal Revenue Service's (IRS) oversight of coalition lobbying.¹³ Specifically, we requested that the IRS produce the following documents:

1. All documents referring or relating to the tax-exempt status of unincorporated coalitions residing at tax-exempt corporations, including reporting requirements concerning these coalitions' lobbying activities.
2. All documents referring or relating to the disclosure requirements of tax-exempt entities that sponsor or provide resources to a coalition, concerning the coalition's lobbying and other activities.
3. All documents referring or relating to those organizations for which the IRS has:
 - a. Conducted a criminal investigation, civil audit, or examination, reviewed whistleblower-informant claims, found abusive tax schemes, and published alerts or abusive tax scheme investor lists concerning coalitions which lobby and/or "stealth" lobbyists from 2004 to the present.
 - b. For each identified, summarize the subsequent allegations and action by the IRS, including penalties, fines, reports, memoranda or other assessments made against those investigated coalitions.
 - c. Provide any documents reflecting coalitions' response to any IRS criminal investigation, audit, examination, whistleblower-informant claim, alert or publication.

By letter dated May 14, 2012, Susan R. Marks-Jensky, Acting Disclosure Manager, HQ FOIA and Tax Checks, responded to our FOIA request in which she stated that no responsive documents were found.¹⁴

In other words, the IRS has failed to require lobbying coalition's to report their activities and the IRS has failed to conduct oversight over tax-exempt corporations that sponsor coalition lobbying without disclosing those activities. Moreover, the IRS, despite concerns by Congress and the media, has failed to conduct any investigations of

¹² 5 U.S.C. § 552, *et seq.*

¹³ Letter, J. Keith Gates, Attorney, Cause of Action to The Honorable Douglas Shulman, Commissioner, Internal Revenue Service (March 22, 2012).

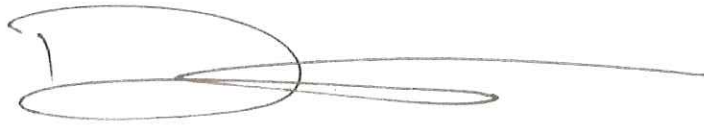
¹⁴ Letter, Susan R. Marks-Jensky, Acting Disclosure Manager, HQ FOIA and Tax Checks, Internal Revenue Service to J. Keith Gates, Attorney, Cause of Action (May 14, 2012).

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lobbying coalition activities that may be inconsistent with the Internal Revenue Code. As a result, we strongly request that you immediately investigate these matters.

Thank you in advance for your kind attention to these matters. Should you have any questions, comments, or concerns, please do not hesitate to contact me at Dale.Wilcox@causeofaction.org or (757) 560-7539.

Sincerely,

A handwritten signature in dark ink, appearing to be 'Dale L. Wilcox', with a long horizontal flourish extending to the right.

DALE L. WILCOX
OF COUNSEL

cc: The Honorable Douglas Shulman
Commissioner
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