

July 16, 2012

Mr. Kevin M. McCarty
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Dear Mr. McCarty,

As groups dedicated to bringing transparency to the political process, we write to request that the National Association of Insurance Commissioners (NAIC) either adopt a model rule or add additional questions to its annual statement requiring insurance companies to disclose all political spending from corporate funds. Recent disclosures have revealed efforts by companies to illicitly influence the 2012 elections. Corporate shareholders and policy holders are entitled to know what insurance companies are doing with their investment dollars and hard-earned insurance payments. Requiring disclosure of political spending also would help the NAIC fulfill its mission to promote the public interest, guarantee the financial stability and solvency of insurance companies, and support competitive markets.

The Supreme Court's 2010 decision in *Citizens United v. FEC* dramatically changed campaign finance and invalidated on constitutional grounds numerous rules regarding political spending.¹ As a result, corporations now enjoy the freedom to spend general treasury funds on independent expenditures and electioneering communications. Since the decision, corporate political spending has increased every fiscal quarter,² and American insurance companies such as Aetna and CIGNA have become major political players.³ Recently, for example, an apparent filing error by Aetna revealed the company had made contributions of over \$7 million to the American Action Network and the Chamber of Commerce in 2011, with the apparent purpose of influencing, at least in part, the 2012 elections.⁴

¹ See *Citizens United v. FEC*, 130 S. Ct. 876 (2010).

² Christopher P. Skroupa, *Investors Want Disclosure of Corporate Political Contributions and Lobbying Expenditures*, *Forbes*, Apr. 20, 2012, <http://www.forbes.com/sites/christopherskroupa/2012/04/20/investors-want-disclosure-of-corporate-political-contributions-and-lobbying-expenditures-2/>.

³ *Id.*; Aetna Life Insurance Company NAIC Annual Statement of Condition and Affairs, Part 1, 2011.

⁴ Letter from Melanie Sloan, Executive Director, Citizens for Responsibility and Ethics in Washington (CREW) to Mark T. Bertolini, chairman, CEO and president, Aetna, Inc., June 14, 2012 (attached as Exhibit A).

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At the same time, *Citizens United* upheld a number of disclosure requirements and envisioned increased transparency in order to ensure corporate accountability and good governance. The Court explained that “prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions.”⁵ The expectation of the Supreme Court that more liberal disclosure would result has, however, been unmet.

As insurance companies and other corporations have increased their political contributions, shareholders have demanded disclosure of this spending. In a 2006 survey, 94% of shareholders said corporations should be required to publicly disclose all political contributions.⁶ Shareholder resolutions calling for increased transparency have surged, with 62 such resolutions brought for a vote in 2010, and 101 in 2011.⁷ In 2011, proxy statements for 25 companies in the S&P 100 included shareholder resolutions for greater political disclosure.⁸ Twenty of these companies received a proposal for increased disclosure from an institutional investor.⁹ Indeed, shareholder interest in political expenditures has increased so significantly that many corporations have voluntarily adopted policies requiring disclosure of political spending.¹⁰ This trend likely will heighten shareholder expectations, increasing the need for all corporations to disclose their political spending if they wish to maintain widespread support from individual and institutional investors.

All public corporations are subject to the demands of shareholders, but insurance companies must also answer to their policyholders. Individual and corporate policyholders have a variety of insurers to choose from, and an insurance company’s decision to disclose political

⁵ *Citizens United*, 130 S. Ct. at 916.

⁶ Center for Political Accountability, “Corporate Political Spending: A Survey of American Shareholders,” Mason-Dixon Polling & Research (2006), *available at*: <http://www.politicalaccountability.net/index.php?ht=a/GetDocumentAction/i/918>.

⁷ Americans for Campaign Reform et al., File No. 4-637, Comments on Petition for Rulemaking on Corporate Political Spending, Submitted by 21 Civic Organizations and Individuals 14, *available at*: <http://www.sec.gov/comments/4-637/4637-21.pdf>.

⁸ The Committee on Disclosure of Corporate Political Spending, *supra* note 3, at 5.

⁹ *Id.*

¹⁰ *Id.* at 6.

spending may significantly impact this choice. Recent events prove policyholders have become increasingly concerned with insurers' lack of transparency. In April, 2012, for example, policyholders and public interest advocates protested outside of CIGNA's annual meeting.¹¹ One protestor lamented that CIGNA "continues to hide how it uses its customers' premiums to support political efforts."¹² Likewise, protestors surrounded WellPoint's 2012 annual meeting, where one demonstrator presented a petition allegedly signed by 15,000 people asking for greater disclosure of political spending.¹³ Considering that one in every nine Americans subscribes to a WellPoint plan, policyholder discontent with the company could have serious ramifications.¹⁴

Refusing to disclose political spending also can negatively impact the financial stability of an insurance company. A 2010 report analyzing 80 S&P 500 companies that have voluntarily adopted disclosure policies found these companies had a 7.5 percent higher industry-adjusted price/book ratio than companies that did not disclose their political spending.¹⁵ This correlation demonstrates that disclosure is not only feasible for large corporations, it is desirable. Companies that are responsive to shareholder interests and communicate with their investors and the public tend to have higher value. Two-thirds of CEOs surveyed in 2010 agree that "the lack of transparency and oversight in corporate political activity encourages behavior that puts corporations at legal risk and endangers corporate reputations."¹⁶ Likewise, the Committee for Economic Development has warned that where transparency is lacking, "[c]orporate resources that might be better spent investing in an enterprise or otherwise building

¹¹ Activists, Shareholders Tell CIGNA to Disclose Secret Spending on Political Front Groups, <http://healthcareforamericanow.org/2012/04/25/activists-shareholders-tell-cigna-to-disclose-secret-spending-on-political-front-groups/> (last visited June 25, 2012).

¹² Matthew Sturdevant, Protesters Criticize Cigna Executives' Pay, Money Spent To Squash Health-Care Reform, *Hartford Courant*, Apr. 25, 2012.

¹³ Tom Murphy, Protestors Disrupt WellPoint Annual Meeting, *Bloomberg Businessweek*, May 16, 2012, available at <http://www.businessweek.com/ap/2012-05/>.

¹⁴ Peter Dreier, Citizens Confront WellPoint: Poster Child for Health Insurance Reform, *Huffington Post*, Sept. 22, 2009 available at http://huffingtonpost.com/peter-dreier/wellpoint-poster-child-fo_b_294343.html.

¹⁵ Americans for Campaign Reform, et al., *supra* note 5, at 13.

¹⁶ Committee for Economic Development, "New Business Poll Shows Discontent with Undisclosed Campaign Expenditures Following Citizens United Decision," Press Release (Oct. 28, 2010).

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shareholder value” may be blindly funneled into political causes irrelevant to the interests and goals of the company.¹⁷

In the wake of *Citizens United*, campaign finance has taken on an increased importance, not just for lawyers and politicians but for individuals, institutional investors, and corporations. Interest in disclosure of political spending has mirrored this expansion. Greater disclosure gives companies a financial advantage and improves their reputation among investors and customers. In 2011, the Committee on Disclosure of Corporate Political Spending petitioned the U.S. Securities and Exchange Commission (SEC) to introduce a new rule mandating greater disclosure of corporate political spending.¹⁸ In response to the petition, individuals, organizations, company CEOs, government officials and others have submitted over 290,000 comments to the SEC.¹⁹

Accordingly, the NAIC should require disclosure of political spending from all insurance companies, whether through adoption of a new model rule, adding new questions to the annual statement blank, or by other means. A disclosure requirement from the NAIC would satisfy shareholder demands, ensure uniformity across the insurance industry, promote the public interest, ensure stability by preventing further protest and helping insurers retain loyal customers, and advance the mission of the NAIC. For these reasons, we urge the NAIC to require greater political disclosure from insurance companies.

Sincerely,

American Federation of State, County and Municipal Employees
Change To Win Investment Group
Citizens for Responsibility and Ethics in Washington
Government Accountability Project
Health Care for America Now
Main Street Alliance
Main Street Alliance of Oregon

¹⁷ Committee for Economic Development, “After Citizens United: Improving Accountability in Political Finance,” *Executive Summary* (2011).

¹⁸ *Id.* at 1.

¹⁹ Comments on Rulemaking Petition: Petition to Require Public Companies to Disclose to Shareholders the Use of Corporate Resources for Political Activities, File No. 4-637 (Sec. and Exch. Cmm’n) available at <http://www.sec.gov/comments/4-637/4-637.shtml>. We understand this is by far the most comments the SEC has received on any rulemaking petition.

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Main Street Alliance of Washington
Maine Small Business Coalition
Mercy Investment Services, Inc.
New Progressive Alliance
OMB Watch
Public Citizen
U.S. PIRG
Walden Asset Management, a division of Boston Trust & Investment Management
West Virginia Citizen Action Group