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'Dark Money' Hits \$172 Million In 2012 Election, Half Of Independent Group Spending

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Karl Rove is the founder of Crossroads GPS, which has already spent \$85.9 million on the 2012 election without disclosing its donors.

WASHINGTON -- In May, the conservative nonprofit group Crossroads GPS, founded by famed political strategist Karl Rove and other leading Republican operatives, ran a [television ad](#) showcasing a fictional mother who had supported Barack Obama in 2008. The mom was disappointed in Obama's performance, saddled as she was with two adult children who had moved back in with her due to the stalled economy. The ad was the centerpiece of a \$25 million campaign -- one of the biggest ad buys so far in the 2012 election cycle.

Despite the fact that the ad's central message was the failure of the president, it wasn't considered a campaign ad under election laws. Although the group spends tens of millions of dollars on ads targeting Democratic candidates, Crossroads GPS is organized as a "social welfare nonprofit" under section 501(c)(4) of the tax code and therefore not subject to the rules governing political organizations.

Whereas super PACs are required to [register](#) with the Federal Election Commission and disclose their donors -- people like Sheldon Adelson, the casino magnate who has given millions of dollars to conservative groups so far this election cycle -- nonprofits like Crossroads GPS and trade associations like the U.S. Chamber of Commerce are allowed to keep their donors secret. As a result, there is a great flood of campaign spending this election cycle for which there is no official paper trail.

"Clearly there's a [market](#) for people who want to influence elections without identifying themselves," said University of California-Irvine election law professor Rick Hasen. "For every Sheldon Adelson, who wants to show how important he is, there are many people who want to keep their identity secret."

Through July 26, politically involved groups that do not disclose their donors have spent at least \$172 million on campaigns that include television, radio and [Internet advertising](#), according to a Huffington Post review of FEC reports, advertising buys, press releases and news stories. Total spending by these groups is likely far greater, since they are required to report only a fraction of their spending to the FEC. Politically involved independent groups that publicly disclose their donors, including super PACs, have spent \$174 million so far this election cycle.

"For this cycle, we know almost nothing," said Center for Responsive Politics communications director Viveca Novak, referring to those behind the spending of non-disclosing groups.

Crossroads GPS is the biggest spender, with \$85.9 million in spending in announced advertising since the beginning of 2011, according to its press releases.

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About three-quarters of that money -- \$65.2 million -- is reported to have gone solely into ad campaigns targeting President Obama in swing states or on national cable. Another \$11.5 million has specifically targeted Democratic Senate candidates facing tough elections. Crossroads GPS reported one \$7 million campaign that was split between attacks on Obama and five Senate candidates.

Other groups that do not have to disclose their donors have also peppered swing states with TV ads. Americans for Prosperity and the

American Energy Alliance, both linked to the billionaire business titans Charles and David Koch, have waged multimillion-dollar advertising campaigns. The conservative American Future Fund has also dumped millions into attacking President Obama.

Non-disclosing groups on both sides of the aisle -- including the conservative American Action Network, American Commitment and Chamber of Commerce and the liberal Patriot Majority USA, Citizens for Strength & Security, League of Conservation Voters and Planned Parenthood -- have taken aim at Senate and House races.

More than 90 percent of the \$172 million reportedly spent came from conservative groups.

THE FLOODGATES OPEN

The amount of undisclosed-donor money spent in federal elections jumped from 1 percent in the 2006 election to 25 percent in the 2008 election, according to the [Center for Responsive Politics](#), after the Supreme Court lifted some restrictions on spending by nonprofit corporations. Spending by non-disclosing groups then skyrocketed to 44 percent of all reported spending in the 2010 election, after the court's January 2010 Citizens United decision lifted bans on independent electoral expenditures by corporations, including nonprofits, and unions. This occurred despite the Citizens United ruling's strong support for transparency in campaign money.

The Internal Revenue Service's refusal, so far, to question Crossroads GPS' status as a tax-exempt social welfare nonprofit was another spark that lit the fire of undisclosed spending, according to Hasen.

"Once [Karl Rove] set up his affiliated Crossroads GPS, a 501(c)(4) group, he saw a big uptick in his contributions," Hasen said. Rove founded the group in 2010. "When they succeeded without any legal repercussions, the floodgates flew wide open for anonymous contributions."

A [joint study by the Center for Public Integrity and the Center for Responsive Politics](#) concluded that non-disclosing groups outspent disclosing groups, like super PACs, by a 3-2 margin in the 2010 election.

Few details have emerged about the sources of the \$172 million the non-disclosing groups have pumped into the 2012 election.

"It's sort of like finding a needle in a haystack," said Novak. "There is no systematic way to figure out who gave, especially corporations and individuals."

[Politico reported](#) that casino mogul Steve Wynn, who once claimed to have voted for Obama in 2008, has given millions to Crossroads GPS and even flew Rove and his new wife, Karen Johnson, in a private jet for a vacation in Italy. [The Huffington Post revealed](#) that Adelson, the biggest casino operator and top donor to super PACs, will contribute money to the efforts of the Koch brothers, who founded and fund Americans for Prosperity.

Major corporations have also been among the secret donors to social welfare groups and trade associations in this election cycle, as well as past ones. Health insurer Aetna [accidentally disclosed](#) in a year-end regulatory filing with the National Association of Insurance Commissioners that, in 2010, it had given \$4.5 million to the Chamber of Commerce and \$3.5 million to the American Action Network.

Hasen thinks that Aetna's disclosure hints at a broader pattern of hidden corporate giving. "It's hard for me to believe that Aetna is an outlier on this," he said.

A Huffington Post review of IRS records and voluntary disclosures found that corporations contributed millions of dollars in 2010 and 2011 to groups running political attack ads.

Companies including AFLAC, Chevron, Dow Chemical, eBay, Intel, MetLife, Microsoft, Prudential, Southern, Target, U.S. Bancorp, WellPoint and Xcel Energy reported giving a combined \$4.5 million to the Chamber of Commerce. Much of it was earmarked for non-tax-exempt activities, including lobbying and advertising.

According to the IRS records covering 2010, Pharmaceutical Research and Manufacturers of America (PhRMA), the chief lobbying organization for the prescription drug industry, contributed to a number of groups, including \$4.5 million to the conservative American Action Network, \$3.375 million to the liberal Citizens for Strength & Security and \$2 million to the liberal America's Families First.

Piecing together information from companies' voluntary reports and annual IRS forms, however, produces only a partial picture of the secret money being spent on the 2012 election. Most documents that would include any information for 2011 won't be publicly available until after this year's election, and reports for 2012 won't be public until 2013.

PUSHING TO REVEAL

To counter the surge of undisclosed-donor money, Democrats in Congress have pushed legislation that would require the disclosure of donors to any group that spends \$10,000 or more on campaign-related expenses, including television ads. The legislation, known as the [Disclose Act](#), [failed to clear a Republican filibuster](#) in the Senate by one vote in 2010 and [faced another two successful Republican filibusters](#) in July 2012.

"It's a very troubling pattern that more money is going underground and being funneled through organizations that keep the sources of funding secret," said Rep. Chris Van Hollen (D-Md.), the champion of the Disclose Act in the House of Representatives.

Van Hollen [won a federal court decision](#) in March directing the FEC to rewrite its rules to require groups spending money on "electioneering communications" to disclose all donors. (An electioneering communication is an ad that mentions a candidate within the period immediately prior to an election, but does not call for her victory or defeat.)

The decision is forcing politically involved "social welfare" nonprofits to shift their strategies in order to keep their donors' names hidden.

Since the [new rules](#) governing electioneering communications (which are retroactive to March 30) apply only to ads that run within 30 days of a primary or a party convention and within 60 days of a general election, Crossroads GPS has been pumping up its spending on ads that fall outside that window.

In 2010, when the Chamber of Commerce led all independent groups in spending \$36 million on the election, all of its ads were classified as electioneering communications. Now the trade group is shifting to "independent expenditures" -- direct appeals to elect or defeat candidates -- which are not covered by the court decision. In the final two weeks of July, the Chamber announced a \$7 million advertising buy to help 11 Republican Senate candidates in tough races, part of its pledge to spend more than \$50 million in 2012.

"There are organizations that are going to try and twist themselves into pretzels to try and avoid telling the public who is funding their campaign ads," Van Hollen said.

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