



February 7, 2022

By electronic submission (via the Federal E-rulemaking Portal)

Policy Division
Financial Crimes Enforcement Network
U.S. Department of the Treasury
P.O. Box 39
Vienna, VA 22183

Re: Notice of Proposed Rulemaking on Implementation of the Corporate Transparency Act, Docket Number FINCEN-2021-0005 and RIN 1506-AB49

Campaign Legal Center (“CLC”) writes to comment on the value of beneficial ownership information (“BOI”) in enforcing campaign finance law, and as such, to encourage the Financial Crimes Enforcement Network (“FinCEN”) to allow the Federal Election Commission (“FEC”) access to the confidential BOI database created by the Corporate Transparency Act (“CTA”). CLC additionally encourages FinCEN to adopt an anti-evasion rule to prevent abuse of the CTA’s narrow exemptions.

BOI Facilitates the Enforcement of Federal Campaign Finance Law

The 2010 U.S. Supreme Court decision *Citizens United v. FEC*, 558 U.S. 510 (2010), opened the floodgates to unlimited political spending by corporations, including LLCs and nonprofit corporations. Because most corporations disclose neither their funders nor their beneficial owners, the corporate political spending made possible by *Citizens United* has created new avenues for malign actors to secretly launder foreign or other illicit funds into U.S. elections.

Although LLCs may now lawfully contribute to entities like super PACs using their own funds, LLCs have also been used as pass-throughs to violate campaign finance transparency laws or prohibitions.

For example, Lev Parnas and Igor Fruman have been convicted in connection with a scheme to launder \$325,000 to President Trump’s super PAC through an LLC.¹ The super PAC disclosed receiving \$325,000 from the entity, called Global Energy Producers, LLC, but the LLC was not the true source of the funds.

In July 2018, CLC filed a complaint with the FEC alleging the contribution violated campaign finance law’s “straw donor” ban at 52 U.S.C. § 30122, which prohibits the making of contributions in the name of another.² Global Energy Producers, LLC fit the profile of an LLC straw donor because it had incorporated in Delaware just five weeks before the six-figure contribution, it showed no evidence of business activity, and it had no public footprint.³

Parnas and Fruman leveraged the influence that the six-figure LLC contribution had afforded to build connections to President Trump’s inner circle—and, eventually, to engage in a shadow diplomacy campaign that shaped U.S. policy towards Ukraine.⁴ The pair lobbied for the removal of the U.S. ambassador in Ukraine, helped arrange meetings in Ukraine for President Trump’s personal lawyer Rudy Giuliani, promoted allegations of corruption against then-presidential candidate Joe Biden and his son Hunter, pushed Ukrainian officials to announce an investigation into the Biden family, and, ultimately, became key figures in President Trump’s first impeachment inquiry.⁵

In October of 2019, Parnas and Fruman were arrested at Dulles Airport on criminal campaign finance charges, including for their illegal laundering of \$325,000 to the super PAC in the name of an LLC and lying to the FEC about it. As U.S. Attorney Geoffrey S. Berman emphasized, the pair “broke the law to gain political influence while avoiding disclosure of who was actually making the donations and where the money was coming from. They sought political influence not only to advance their own financial interests but to advance the political interests of at least one foreign official – a Ukrainian government official who sought the dismissal of the U.S. ambassador to Ukraine.”⁶

¹ See Colin Moynihan, *Lev Parnas, Ex-Giuliani Ally, Is Convicted of Campaign Finance Charges*, N.Y. Times (Oct. 22, 2021), <https://www.nytimes.com/2021/10/22/nyregion/lev-parnas-guilty-giuliani.html>; Colin Moynihan, *Igor Fruman, Former Giuliani Associate, Is Sentenced to One Year in Prison*, N.Y. Times (Jan. 21, 2022), <https://www.nytimes.com/2022/01/21/nyregion/igor-fruman-sentencing.html>.

² Campaign Legal Ctr., *Complaint to FEC Against Global Energy Producers LLC, et al.* (Jul. 25, 2018), <https://campaignlegal.org/sites/default/files/2018-07/SIGNED%2007-25-18%20GEP%20LLC%20Straw%20Donor%20Complaint.pdf>.

³ See *id.* ¶¶21-22.

⁴ See Brendan Fischer, *How Citizens United Led Directly to President Trump’s Impeachment*, SLATE (Jan 21, 2020), <https://slate.com/news-and-politics/2020/01/citizens-united-john-roberts-trump-impeachment.html>.

⁵ See Brendan Fischer & Maggie Christ, *The Real Backstory to the Arrest of Two Ukrainian-American Donors to Trump*, CAMPAIGN LEGAL CENTER (Oct. 11, 2019), <https://campaignlegal.org/update/real-backstory-arrest-two-ukrainian-american-trump-donors>.

⁶ Press Release, *Lev Parnas and Igor Fruman Charged With Conspiring to Violate Straw and Foreign Donor Bans*, Department of Justice (Oct. 10, 2019), <https://www.justice.gov/usao-sdny/pr/lev-parnas-and-igor-fruman-charged-conspiring-violate-straw-and-foreign-donor-bans>.

As the *New York Times* would later characterize them, Parnas and Fruman were “somewhat hapless operators.”⁷ CLC managed to connect Global Energy Producers, LLC to Parnas and Fruman by matching addresses and employer information in campaign finance records.⁸ More sophisticated actors might have been better at abusing anonymous shell companies to cover their tracks—which underscores the value of BOI in enforcing campaign finance law.

LLCs can also be used to mask other forms of illicit political contributions. For example, evidence described in an unsealed FBI warrant application demonstrates how LLCs can be used to mask violations of the ban on federal contractors making political contributions.

The Society of Young Women Scientist and Engineers LLC (“SYWSE LLC”) gave \$150,000 to a federal super PAC supporting the reelection of Sen. Susan Collins just five weeks after forming in Hawaii. As was the case with Global Energy Producers, LLC, publicly available facts indicated that SYWSE LLC could not have legitimately generated enough income during its short existence to cover the six-figure super PAC donation, which strongly suggested that the money came from elsewhere. In February of 2020, CLC filed a complaint with the FEC alleging that SYWSE LLC violated campaign finance law’s straw donor ban.⁹

An unsealed FBI warrant application later revealed that SYWSE LLC was not the true source of the contribution—and that the funds in fact came from a federal contractor legally barred from making political contributions.¹⁰

According to the unsealed warrant application, SYWSE LLC was created at the direction of the CEO of a defense contractor called Navatek.¹¹ Shortly after the LLC was registered, it was used to funnel \$150,000 to a super PAC supporting Sen. Collins, who had previously helped Navatek secure an \$8 million contract from the U.S. Navy.¹²

These are just two examples of LLCs enabling illicit campaign financing, but there is a long list of opaque and obscure corporations that have pumped millions into U.S. elections while

⁷ Kenneth P. Vogel, *Giuliani’s Ukraine Team: In Search of Influence, Dirt and Money*, N.Y. TIMES (Oct. 10, 2019), <https://www.nytimes.com/2019/10/10/us/politics/rudy-giuliani-ukraine-associates.html>.

⁸ See Fischer & Christ, *supra* note 5.

⁹ Campaign Legal Ctr., Complaint to FEC Against Society of Young Women Scientist and Engineers LLC, et al. (Feb. 3, 2020), https://www.fec.gov/resources/cms-content/documents/clc_202842_complaint.pdf.

¹⁰ Byron Tau & Julie Bykowicz, *FBI Probes Defense Contractor’s Contributions to Sen. Susan Collins*, WALL STREET JOURNAL (May 18, 2021), <https://www.wsj.com/articles/fbi-probes-defense-contractors-contributions-to-sen-susan-collins-11621382437>; see 52 U.S.C. § 30119 (prohibiting federal contractors from making contributions to federal candidates, political committees, and PACs); *Wagner v. Fed. Election Comm’n*, 793 F.3d 1 (D.C. Cir. 2015) (upholding federal contractor ban).

¹¹ Application for a Search Warrant, *In the Matter of the Search of One Digital Storage Media Device*, Case No. 21-sw-101, at ¶¶43-44, (D.D.C. Apr. 7, 2021) <https://s3.documentcloud.org/documents/20744899/navatek-search-warrant.pdf>.

¹² *Id.* at 22-30; see also Lachlan Markay, *Collins Helps Contractor Before Pro-Susan PAC Gets Donation*, AXIOS (Jan. 27, 2021), <https://www.axios.com/susan-collins-pac-filing-d46c911f-112b-4e59-a231-8e59dc56dcc7.html>.

disguising who is behind them.¹³ Indeed, in the 2020 cycle alone, entities with “LLC” in their name gave \$36.1 million to federal political committees.¹⁴

Certainly, not every LLC contribution is unlawful, but these numbers help illustrate the scale and scope of the potential challenge in enforcing campaign finance law when anonymous shell corporations are involved. In fact, in some cases, the challenges associated with the FEC investigating campaign finance violations involving anonymous LLCs have contributed to delays so substantial that the violations have become imperiled by the statute of limitations.¹⁵

Offering the FEC ready access to the BOI database would facilitate investigations into illicit funds in the U.S. election system.¹⁶

FinCEN Should Adopt an Anti-Evasion Rule

Finally, we encourage FinCEN to adopt a rule that would clearly prohibit attempts to evade the CTA’s reporting requirements.

As other commenters have noted, FinCEN should narrowly interpret the exemptions from beneficial ownership reporting requirements, lest the exemptions swallow the rule.¹⁷ As an additional protection against abuse, FinCEN should adopt an anti-evasion rule.

FinCEN has already adopted rules at 31 CFR § 1010.314 that prohibit the structuring of transactions in order to avoid reporting requirements under the Bank Secrecy Act. The agency should create an analogous anti-evasion ban for BOI reporting, and clearly prohibit any effort to abuse these narrow exemptions. The CTA appears to anticipate such an anti-evasion rule. *See* 31 U.S.C. § 5336(h)(3)(C)(i)(II)(aa).

¹³ *See, e.g., Mystery Money, How a Loophole Could Allow Foreign Money to Flow Into Super PACs Through Secretive Shell Companies*, ISSUE ONE (July 2020), <https://www.issueone.org/wp-content/uploads/2020/07/Mystery-Money-Report-Tipsheet.pdf>.


¹⁴ Individual Contributions from “LLC,” 2019-2020, FEC.GOV, https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=llc&two_year_transaction_period=2020 (last visited Feb. 7, 2022).

¹⁵ *See, e.g.,* FEC MUR 6920 (American Conservative Union), <https://www.fec.gov/data/legal/matter-under-review/6920/> (FEC finding a violation of the straw donor ban in connection with a \$1.7 million contribution that had been passed through a trust, an LLC, and a 501(c)(4) before reaching a super PAC, but where the true source of the funds was never discovered because of an expiring statute of limitations); *see also* Statement of Reasons of Commissioner Ellen Weintraub, MUR 6920 (American Conservative Union) (Apr. 7, 2020), https://eqs.fec.gov/eqsdocsMUR/6920_2.pdf.

¹⁶ We understand that the CTA does not contemplate a significant role for public interest watchdogs, and focuses mainly on offering confidential access to law enforcement agencies and other government regulators. However, these examples highlight how an agency like the FEC can use the database in support of enforcing campaign finance law.

¹⁷ Most notably, exemption xxii, as currently interpreted in the proposed rule, might operate to exempt any covered entity that is controlled *to any extent* by another specific exempted entity, including certain nonprofit organizations, political organizations, or trusts. Proposed 31 C.F.R. § 1010.380(c)(2)(xxii) (exempting “Any entity of which the ownership interests of such entity are controlled or wholly owned”). This loophole should be closed by permitting such exemptions only when the relevant entity is wholly owned or *wholly* controlled by a specific exempt entity.

Please do not hesitate to contact us for additional information,



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