



## The Mitt Romney Outsourcing 'Scandal' Is Ridiculous

Stan Abrams, *China Hearsay* | Jul. 13, 2012

You may not believe this, but I really tried to avoid the topic of US Presidential candidate Mitt Romney's record on "outsourcing" for a long time. Two things have forced my hand. First, this political fight has devolved into such utter stupidity that it has become entertaining.

Second, and more important, the implied criticism of foreign direct investment by Democrats hits a bit close to home for someone who not only practices FDI law in China but also teaches it to aspiring young law students. I look forward to the day when one of my students asks me "I have an American client that wants to set up a factory here and sell widgets to Chinese people. If I help them, does that make me evil?"

I'm going to avoid all the tiny details of the different companies Romney invested in and the deals they supposedly made. Not important, although he certainly hasn't helped himself by hiding information and prevaricating. No, let's start this off by stipulating, just for the sake of argument, that while working for [Bain Capital](#), Romney actively invested in and helped to manage companies that were involved in outsourcing, offshoring, and different flavors of FDI. Moreover, to simplify matters, I'll refer to all this activity as FDI, even though many forms of outsourcing do not involve any equity stakeholding whatsoever. It's a nice short acronym, and besides, we all know that the topic concerns "shipping jobs to China."

I find almost all of the many, many investigative articles that have come out about Romney's Bain activities overseas to be ludicrous. At most, they purport to catch Romney in lies, which I suppose is a useful and relevant exercise. However, most of them are all about finding a "smoking gun," uncovering information that ties the candidate directly to business decisions that involved FDI or outsourcing. The assumption that these business decisions were somehow evil or unpatriotic is often left unsaid.

David Corn, a reporter whose work I usually enjoy, has [an "exclusive" for Mother Jones](#) that contains this breathless statement:

According to government documents reviewed by Mother Jones, Romney, when he was in charge of Bain, invested heavily in a Chinese manufacturing company that depended on US outsourcing for its profits—and that explicitly stated that such outsourcing was crucial to its success.

Oh my! Say it ain't so!

Again, to the extent that this is simply catching Romney in a direct lie, that's fine. But that isn't really what's going on here. The headline of Corn's article isn't "Romney lies about outsourcing," it's "EXCLUSIVE: Romney Invested Millions in Chinese Firm that Profited on US Outsourcing." The editorial goal there seems pretty clear to me.

President Obama and his team have been all over this issue, particularly in Midwest swing states that have lost hundreds of thousands of manufacturing jobs over the years, places where political consultants tell us that China bashing is the most effective. Certainly Romney himself has spewed forth his share of anti-China rhetoric in places like Ohio and Pennsylvania.

One of the better criticisms of Obama's tactics [comes from Michael Kinsley](#), whose recent article on the subject includes this handy strategy guide:

Obama apparently intends to skewer Romney as a businessman. His campaign carefully conflates being a businessman with being a crooked businessman, and many other variations on the theme: being a ruthless businessman, a businessman who engages in outsourcing, a businessman who doesn't pay enough taxes and so on.

This is the dishonest and dastardly part of the whole exercise, implying that there was necessarily something improper in straightforward, normal foreign investment transactions. I, for one, do not enjoy being lumped in with corrupt [Goldman Sachs](#) muni bond underwriters, [AIG](#) con men, or Countrywide mortgage document forgers. Yes, Wall Street has a lot of corruption problems, but that doesn't mean everyone who does business is a crook.

For instance, Corn describes a Bain investment in a Hong Kong household appliance company that had its manufacturing operations across the border in (you could probably guess this yourself) Dongguan. Companies like the American Sunbeam outsourced some of their manufacturing to this Hong Kong entity.

Christ on a stick. This was in the late 90s. Who **wasn't** doing that kind of outsourcing? Corn is indicting just about every American multinational that existed at the time.

But wait, the silliness gets better. Corn, who isn't alone in doing so, also goes after the offshore structure Romney used to hold equity in this Hong Kong company. Sorry for the extended quote here, but you need the whole thing to appreciate the stupid:

Brookside was sharing its stake in Global-Tech with Sankaty High Yield Asset Investors LTD—a Bermuda-based corporation of which Romney was the “the sole shareholder, a director, and President.” That is, Romney had split his Global-Tech holdings between two of his various business entities. (The [SEC](#) filing doesn't indicate why he did that.)

Sankaty is a story in itself. It was recently the focus of an Associated Press investigation that [reported](#) that Sankaty “is among several Romney holdings that have not been fully disclosed” and that there is a “mystery surrounding” Sankaty. Reporting on this Romney entity, Vanity Fair [noted](#) that “investments in tax havens such as Bermuda raise many questions, because they are in ‘jurisdictions where there is virtually no tax and virtually no compliance,’ as one Miami-based offshore lawyer put it.” With Sankaty, Romney was using a mysterious Bermuda-based entity to invest in a Chinese firm that thrived on US outsourcing.

I almost want to bang my head against the wall after reading that drek. I assume that for many reporters, setting up an offshore special purpose vehicle in Bermuda or the Cayman Islands is “mysterious” and therefore smacks of wrongdoing. But I've been reading and watching David Corn for years, and I know he's smarter than that. This ignorance seems like it's purposeful.

Readers of this blog, and folks who do business overseas, understand that there are many good reasons for using a Caymans or BVI holding company to facilitate foreign investment, none of which is illegal unless you're trying to launder drug money. Yes, tax planning is one of those reasons, but as Kinsley pointed out in his column:

It's not necessarily evil or even wrong for Romney to have taken advantage of every opportunity to minimize his tax bill. There is a point at which twisting yourself and the regulations into knots to avoid taxes does start to seem unpatriotic, and some of Romney's tax shelter arrangements may approach that point. His refusal to reveal more than a tiny part of his financial records is suspicious. But the mere fact that he does what he can to pay as little as he can is not.

I'm sorry, but most human beings, when given the choice of whether to hold funds in a bank account in Country A and pay tax or Country B and not pay tax, they'll go with Plan B.

Aside from tax issues, there are a lot of factors that go into choosing an offshore jurisdiction for a holding company – I usually devote at least an hour to the subject in my FDI Law class. For example, for many years now, folks who think they might list in the US have gone with a Caymans entity. I've had numerous clients over the years who hold their PRC equity through Hong Kong to take advantage of the low taxes, legal system, etc. while still remaining in the PRC.

To put it bluntly, anyone who suggests that the decision to go with an offshore holding company is like a bank robber looking for a place to hide his stash is either woefully ignorant or being dishonest.

And what about the main contention here, that somehow the foreign investment itself is something that Romney should be ashamed of? As usual, trade guru Dan Ikenson has this aspect covered. His recent article "[Outsourcing for Dummies](#)" pokes several holes in the conventional wisdom about foreign investment and job losses. We've been through those arguments, and that data, many times on this blog.

But here's the thing. Even if some kinds of foreign investment or outsourcing are all about cost cutting (more true in the 90s than now) and do in fact lead to home country job losses (and certainly in the late 90s that was true with respect to China), so what? Many of those companies who turned to outsourcing at that time were being hammered by cheaper imports from Mexico, Taiwan or even China. Firms like the one Romney invested in helped them stay in business by moving part of their operations offshore.

I've always contended that:

- 1) Free trade is generally a good thing.
- 2) There are winners and losers.
- 3) Government should help the losers.

In the meantime, as long as foreign investment is legal and the U.S. does not provide incentives for companies to stay at home, it's just not fair to criticize firms for making good business decisions by going abroad. Did many of these companies purposely kill American jobs so that they could become more profitable? Yes, some did, but those decisions were not illegal or, I would argue, unethical. A very normal type of business transaction should not be portrayed as some sort of nefarious scheme.

Finally, David Corn concludes that whatever else you might think of Romney's outsourcing work, his statements about China make him a hypocrite:

Whether or not he was at the helm when Bain invested in US firms that did or did not ship jobs overseas, Romney was in command when a company he owned and controlled bought a large stake in a Chinese venture that counted on American companies sending manufacturing—and that means jobs—to China. These days, Romney rails against China for swiping American jobs and proclaims, "For me, it's all about good jobs for the American people." But when there was money to be made by acquiring a chunk of a Chinese company that aimed to displace American manufacturers (and American workers), Romney's patriotism did not interfere with the potential for profit.

While I think it's fair game to criticize the substance of Romney's ridiculous China bashing (I've done my part over the past few months), Corn might be slightly off base here. If, for example, Romney had limited his criticism of China trade practices to illegal subsidies or conditional technology transfer — you know, actual problems — this would be perfectly justifiable even in light of his business history. Just because someone is involved with China FDI doesn't mean that they can't be a critic.

Moreover, even criticism of Romney's idiotic "it's all about jobs" verbiage, which does indeed come across as hopelessly hypocritical given his corporate raider history with Bain, is off the mark. Let's keep it real, folks. This is a presidential candidate talking about trade policy, and saying that "it's all about jobs" is merely a signal that jobs would be a priority in his policy formulation. If you actually believe him, that is. Do we really expect our presidential candidates to have devoted their lives to protecting American jobs at all cost, even if that notion conflicted with the position they held at the time?

Maybe the real problem here is that [Mitt Romney](#) is incredibly boring and unappealing. Perhaps there's nothing else to talk about. However, engineering a "scandal" out of normal, and I think justifiable, business practices from well over a decade ago is pretty lame. But the Democrats think this one is a winner and will no doubt beat this one to death, at least in the Midwest, with the mindless press perfectly happy to parrot the demonization of trade and foreign investment without questioning the merits of the arguments.