

# COUNTERPUNCH

## Weaponizing Charity to Advance a Political Agenda

Chuck Collins and Helen Flannery

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This week, the *New York Times* announced that a relatively unknown businessman, Barre Seid, had given a \$1.6 billion donation to the nonprofit Marble Freedom Trust.

The gift is, by a long shot, the largest one ever made to a political advocacy group. And it serves as a record-smashing reminder that because of the way our charitable system is currently set up, wealthy donors can use philanthropy to avoid millions in taxes while advancing their personal political goals at the same time.

### **A clever tax-avoidance scheme**

Seid's donation went to the Marble Freedom Trust, a new nonprofit founded in 2020. The organization is headed by Leonard A. Leo, the co-chair of the conservative Federalist Society and one of the chief architects of right-wing efforts to reshape the Supreme Court and the U.S. judicial system.

Leo's Marble Freedom Trust (MFT) is a 501(c)(4) charity, which means that it can do overtly political work like lobbying and buying ads for political campaigns. Gifts to organizations like MFT are *not* tax deductible for the donor, unlike contributions to 501(c)(3) organizations — non-political charities like food banks and homeless shelters — where gifts can be used to reduce income taxes.

But according to ProPublica and The Lever, which independently verified the *Times*' story, Seid was able to use his donation to sidestep taxes in a different way. While you can't deduct donations to 501(c)(4) organizations from your income taxes, you *are* allowed to donate non-

cash assets to 501(c)(4) organizations — assets like company stock — and you can then avoid paying capital gains on those assets when they are sold.

And that is exactly what Seid did. He donated all of his stock in his company, Tripp Lite, a maker of electronic devices, to the Marble Freedom Trust. MFT then sold Tripp Lite to another company for \$1.65 billion dollars. The charity then had \$1.65 billion in its pockets, and Seid avoided the estimated \$400 million in capital gains taxes that he would have had to pay if he had sold the company himself.

### **A more effective way to buy influence**

We usually think of the main tax advantage of charitable giving being the income tax deduction that donations afford to donors who itemize. And those deductions can only be had by giving to nonpolitical 501(c)(3) nonprofits.

But very wealthy people such as Seid typically earn more of their income from dividends or sales of non-cash assets like stocks and real estate than they do from interest or salaries. Which means that they can often owe more in capital gains taxes than they do in income taxes. For these people, avoiding taxes on their capital gains is actually much more of a motivator than avoiding income taxes. And it is perfectly legal for them to avoid those capital gains taxes by donating non-cash assets to political 501(c)(4) nonprofits, and letting those organizations sell the assets instead.

For politically-minded donors facing a large capital gain, therefore, giving a non-cash donation to a 501(c)(4) organization gives them an incredible amount of power bang for their buck. They can be far more effective and far-reaching in influencing public policy by giving to a 501(c)(4) than a 501(c)(3), and they can avoid a hefty chunk of taxes in the process.

### **The essence of dark money**

Seid has long supported right-wing causes. He gave grants from his private foundation to the anti-tax libertarian Cato Institute and the climate-change-denying Heartland Institute; he donated to the campaigns of Republican political candidates in his home state of Illinois; and he used \$17 million of his own money to fund the distribution of an anti-Muslim film during the 2008 presidential campaign. He has tried to do it all as quietly as he can — including funneling many of his donations anonymously through DonorsTrust, a donor-advised fund sponsor that courts donors interested in conservative causes and keeps its giving fiercely close to the vest.

Seid's gift to the Marble Freedom Trust is far larger than any of those previous efforts, but he likely would have wanted to keep that donation on the down-low as well. In fact, the only reason we know about it is because of the investigative journalism of the *Times*, ProPublica, and The Lever.

Political PACs, parties, and candidates are all required to disclose their donors, but political charities such as MFT have no obligation to do so. This sort of giving is the very definition of dark money — anonymous donations flowing into secretive lobbying and advocacy campaigns which determine policy for all of us. This is how influence is bought. This is how multi-millionaires are able to set the public agenda.

### **Weaponizing philanthropy to subvert democracy**

To add insult to injury, the tax savings that wealthy donors get from their philanthropy are all subsidized by the American taxpayer. So donations such as Seid's are effectively our tax dollars at work. When a donor gets an income tax deduction or avoids paying capital gains taxes because of their giving, that revenue is lost to the public treasury.

When donors then weaponize those gifts to manipulate public policy according to a private political agenda, they undercut the democratic process as well.

This sort of misuse is not the reason our tax code permits the tax deductibility of charitable gifts. And it is antithetical to a republic that aspires to democratic governance and equality of opportunity. As philanthropic commentator Teddy Schleifer asked regarding Seid's gift: "Donations of appreciated assets to 501c4s is another way in which 'philanthropy' is subsidized by you, the taxpayer. Would you rather this money go to your roads, your libraries and your schools — or to donors' personal political groups?"

Unfortunately, as we documented in our recent report *Gilded Giving 2022*, Seid is not the only billionaire philanthropist using our charitable system to further their own self-serving financial or public policy goals. Lawmakers must reform our charitable giving laws to ensure that public philanthropy is not abused either for extreme tax avoidance or for the advancement of personal political objectives.