

# Deseret News

## As parties fade and candidates shrug, 'super PACs' drive campaigns

By Eric Schulzke, Deseret News

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Few Floridians have ever heard of Miriam Adelson, but by Tuesday most will have heard from her. The wife of Sheldon Adelson, a billionaire Las Vegas casino mogul, has placed a \$5 million bet on Newt Gingrich in the Sunshine state, matching her husband's wager in South Carolina. Adelsons?

pro-Gingrich Super PAC bought an anti-Romney film and promoted it heavily in South Carolina, making Gingrich's win possible. The Adelsons' spending is protected First Amendment speech, according to the Supreme Court. The couple is simply letting their voices be heard, albeit loudly. Nor are Romney's friends silent. When he needed to take out Newt Gingrich in Iowa, Romney stepped aside for a Super PAC called Restore our Future, friends of Mitt who apparently never talk to him but have spent \$16 million so far on his behalf. Under current law, new this presidential election cycle, groups and individuals can raise and spend freely, so long as they disclose their finances and do not coordinate with candidates. The result is a surreal world where ads come from shadow campaigns, while candidates shrug about misleading ads, saying they have no control. Such are the fruits of campaign finance reform. Over at Comedy Central, Steven Colbert and Jon Stewart are having fun with their own super PAC, with Colbert running for office while Stewart handles the PAC, with no coordination between them. In fact, they do coordinate ? as the real candidates do ? through public statements aimed at each other. The 2002 McCain-Feingold campaign finance bill was supposed to remove the cynical wash of money from federal elections. It tried to clamp two money gaps. First, it gutted ?soft money,? large contributions from corporate and ideological PACs given directly to political parties to build their organizations and buy ads on behalf of their nominees. The anti-soft money prong of McCain-Feingold would go on to survive a court challenge. Second, the new law tried to prevent independent groups and wealthy individuals from buying ads to attack a candidate within 30 days of a primary and 60 days of a general election. Inside those windows, they would have to conform to complicated and limiting rules. The goal was to prevent last-minute, misleading ads that could tip an election without giving voters a chance to establish the truth. This part of the law would not survive court review. The net result: party funding was devastated, while individuals and groups were set free. University of California-Berkeley political scientist Bruce Cain saw it coming. ?I saw it as hopeless. I told them all they were doing when blocking off the party route is forcing the money into independent groups,? said Cain, adding that without the parties ?there is less self-control and more incivility because the candidates have deniability.? The problem is the blasted First Amendment: ?Congress no shall make no law ... abridging the freedom of speech.? ?This is not complicated,? said David Keating, who heads both the Club for Growth and Speechnow.org, the latter the organization that lent its

name to a key court decision striking down McCain-Feingold limits. The bottom line, he said, is that "people who are in control of the government are not in control of the speech about the government. The First Amendment was written to allow the people to speak out against the government." Brad Smith at the Center for Competitive Politics also sees the courts' loosening of limits on election spending as inevitable and positive. "This is why we have a Bill of Rights," he said, "because the majority would be quite happy to restrict political speech. A lot of what people object to in politics is politics itself, especially when the other side is winning." Much vocal discontent centers on the Supreme Court's 2010 Citizens United decision, which allowed corporations and unions to spend freely and provoked outcries from those who feel corporations would quickly dominate. In fact, there is no evidence of any corporations entering the field, though a union is attacking Romney in Florida. Even if corporations did engage, UC-Berkeley's Cain said, the results would be doubtful: "If ballot initiatives teach us anything, it is that once a corporation becomes linked to it, it goes down." Then there remains the corruption concern, as voiced in the Supreme Court's 1976 Buckley v. Vallejo decision, which held that direct contributions to a candidate could corrupt an office-holder and therefore might override speech protections. To navigate the minefield, the court created two forks: one for contributions, the other for expenditures. It allowed Congress to regulate the contributions, but held that expenditures were protected speech. The distinction was well intended, but structurally unsound. It came crashing down in 2010, as independent spending broke free. Today, there is a growing consensus that the corruption concern is best handled by full disclosure. Where to from here? Ray LaRaja, a political science professor at the University of Massachusetts-Amherst, feels the best way forward is to nudge money back toward political parties, since they must answer to voters over time. "Give the money to groups that have a brand name so that people can punish them," he said. "Bring back soft money." Ilya Shapiro at the **CATO Institute** favors a strong disclosure regime combined with higher limits to candidates, allowing dark-horse candidates to get more traction while remaining responsible for their own speech. The classic illustration is 1968, when Eugene McCarthy shocked Lyndon Johnson in New Hampshire through heavy backing from a wealthy supporter, back in the days before campaign finance control. Shapiro would raise the \$2,500 limit per election cycle to \$100,000 but with full disclosure, which he believes would allow better candidates to enter the race. As things stand, he said, "the political system is less dynamic and more lawyered up." Allowing larger contributions to candidates, he argues, would redirect energy now spilling over into unaccountable Super PACs. For those keeping score at home, the answers offered so far are: disclose everything, allow higher limits to candidates, and return soft money to parties. One other option might simply be less government. "Money flows into elections because the government is so big and powerful," Keating says. "It rewards some interests with goodies, or punishes others with taxes or regulations. With so much at stake, people will spend a lot to persuade voters." Eric Schulzke writes on national politics for the Deseret News. He can be contacted at [eschulzke@desnews.com](mailto:eschulzke@desnews.com)