



The League *of* Ordinary Gentlemen

Koch v. Cato – Some Further Thoughts

by [JASON KUZNICKI](#) *on* [MARCH 4, 2012](#)

When I learned that the Kochs were suing Cato, I'm sorry to say that one of the first things I felt was vindication. I'd been saying for years that Cato was essentially an independent shop. The suit makes no sense unless I was right all along.

I've worked at Cato for five and a half years. In that time I have never seen a single decision made in consideration of the Koch brothers' wishes. Cato has always appeared to be run by two people: its president, Ed Crane, and its executive vice president, David Boaz. It was like that when I was hired, and it's like that now.

Even they don't call all the shots, either; plenty of things get published that they actually disagree with, including some of my stuff. The people who spin elaborate fantasies about the Kochs acting as our puppet masters were, and are, dead wrong. They've been wrong since at least the early 90s, if not earlier. I've been saying so for years. Now the whole Cato Institute is in open revolt against the Kochs, a revolt that grew up with astonishing speed.

Why? And why do the Kochs want control?

[Ed Crane and Bob Levy, the chairman of Cato, think that the Kochs want to turn the Institute hard to the right](#), favoring neoconservatism and right-wing cultural issues at home. Most likely they want it silent on civil liberties and the War on Drugs. Their view is corroborated by [my colleague Jerry Taylor's statement over at the Volokh Conspiracy](#): Last year, they used their shares to place two of their operatives – Kevin Gentry and Nancy Pfothenauer – on our board against the wishes of every single board member save for David Koch. Last Thursday, they used their shares to force another four new board members on us (the most that their shares would allow at any given meeting); Charles Koch, Ted Olson (hired council for Koch Industries), Preston Marshall (the largest

shareholder of Koch Industries save for Charles and David), and Andrew Napolitano (a frequent speaker at Koch-sponsored events). Those four – who had not previously been involved with Cato either financially or organizationally – were likewise opposed by every member of our board save for Gentry, Pfothenauer, and David Koch. To make room for these Koch operatives, we were forced to remove four long-time, active board members, two of whom were our biggest donors. At this moment, the Kochs now control seven of our 16 board seats, two short of outright control.

Why are they forcing out Cato board members, all strong, principled libertarians who have been heavily involved with Cato – financially and organizationally – for years? The answer was given in early November of last year when David Koch, Richard Fink (he of many Koch hats), and Kevin Gentry met with Cato board chairman Bob Levy. They told Bob that they intended to use their board majority to remove Ed Crane from Cato and transform our Institute into an intellectual ammo-shop for American for Prosperity and other allied (presumably, Koch-controlled) organizations. That statement of intent is certainly consistent with what we've been hearing from both Kevin Gentry and Nancy Pfothenauer. They've frequently complained during their short time on our board that Cato wasn't doing enough to defeat President Obama in November and that we weren't working closely enough with grass roots activists like those at AFP...

Let's take a look at a few of these new board members of ours. Kevin Gentry is a social conservative activist who's also vice-chair of the Virginia GOP. Nancy Pfothenauer is a former spokesperson for the McCain campaign who has argued on television in favor of the Iraq war and the "don't ask, don't tell" policy pertaining to gays in the military. Ted Olson is a Republican super-lawyer who's never identified himself as a libertarian...

Just before the last shareholders meeting, the Koch brothers also nominated –but were unable to elect – eight additional individuals for our board. Those nominees included the executive vice president of Koch Industries, a staff lawyer for Koch Industries, a staff lawyer for the Charles Koch Foundation, a former Director of Federal Affairs for Koch Industries, a former Executive Director of the National Republican Senatorial Committee (and who was, incidentally, a McCain bundler), and a lifelong Wichita friend of Charles Koch. Aside from those functionaries, they also nominated a couple of people with public profiles that make the jaw drop:

- John Hinderaker of the Powerline blog, whose firm counts Koch Industries as a client. Hinderaker has written, “It must be very strange to be President Bush. A man of extraordinary vision and brilliance approaching to genius, he can’t get anyone to notice. He is like a great painter or musician who is ahead of his time, and who unveils one masterpiece after another to a reception that, when not bored, is hostile.” Hinderaker supports the Patriot Act and the Iraq War and calls himself a neocon.
- Tony Woodlief, who has been president of two Koch-created nonprofits and vice president of the Charles Koch Foundation. Woodlief has blogged about “the rotten heart of libertarianism,” calling it “a flawed and failed religion posing as a philosophy of governance” while complaining about libertarians “toking up” at political meetings.

The evidence speaks for itself. A socially conservative, hawkish Cato wouldn’t be Cato anymore. It would be the west annex of the Heritage Foundation. In *this* context, Andrew Napolitano — otherwise a fine libertarian — is just the lipstick on the pig. I’m sorry, Andrew, but you are.

The real work that Cato does, above all of its specific issue advocacy, is to show that the ordinary constellations of opinion, both left and right, aren’t necessarily so good. Many of Cato’s ideas are already out there, on the left or the right. What Cato does is fit them together in a way that we find is much more consistent and principled. We might be wrong, but at the very least we’re a reasonable challenge to the status quo.

What does Cato say that no other think tank says? Militarism *is not* the foreign policy best suited to the free market. In fact, it’s the *worst* foreign policy for a free market. The War on Drugs is not only unnecessary in a free market, but ending it would be a straightforward implementation of free market principles. And the freedom to buy and sell is a sick joke without robust civil liberties for all. Conversely, most people want their civil liberties partly so that they can earn a living and enjoy economic opportunities. *That* is what Cato is about. That is also apparently why the Kochs are trying to destroy it. I can’t understand how people who are so smart in business can be so boneheaded when it comes to activism. It’s a painfully stupid decision. Even if it were innocent — which it’s not — it still *lookshorrible*. It’s as if the Kochs set out to prove every last thing that progressives have ever said about them.

To sue William Niskanen’s widow is atrocious all by itself, an act worthy of a cartoon plutocrat. They appear to have been biding their time until he died, which is just ghoulish. Everyone from left to right admired Bill’s honesty, courage, and intellectual

rigor, even if they disagreed with him. He was a fine scholar and a true gentleman. I worked with him very closely on his last book, I saw his good qualities and learned a lot from him, and I am appalled that the Kochs would burden his widow in their bid for control.

What we are witnessing here is a very important moment in the history of conservative-libertarian fusionism. Possibly its death knell. To the extent that any of my colleagues have spoken, it's fair to say that *this* is what they have said as well.

I don't fear being fired anymore. They'd have to fire all of us if they wanted Cato to do their bidding. If they did, we'd just reorganize somewhere else. The donors and the audience would follow the productive people who actually did the work, not the people who sat on their shares and waited for Bill Niskanen to meet his maker. The productive folks are the ones who really run things. (Yeah, it's kind of like *Atlas Shrugged* in that way. Funny, huh?)

As I said on Twitter, without us, "Cato" is just a very new, very empty building. The Kochs could have bought one of those with a lot less trouble.