Corporate Cronies:

How the Bush Administration Has Stalled a Major Corporate Reform and Placed the Interests of Donors over the Nation's Investors

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Executive Summary

The corporate crime wave that came to light in 2002 cost investors dearly, with some $7 trillion in market value vanishing almost overnight.[1] The series of scandals that spurred this economic meltdown – Enron, Global Crossing, Adelphia, Tyco, Worldcom and others – exposed the stunning, systemic failure of corporate directors to police crooked CEOs or protect the interests of shareholders.

In response, President Bush had strong words for dishonest CEOs and other corporate malefactors. "We've got thousands of citizens who own shares of publicly held companies, many in pension plans, mutual funds, a lot of them direct ownership," Bush said in a March 2002 speech on corporate responsibility. "And this country must hold CEOs – CEOs of publicly held companies, to the highest of high standards."[2]

The job of setting those high standards fell to the Securities and Exchange Commission (SEC), the quasi-independent federal agency charged with protecting investors and maintaining the integrity of U.S. securities markets. In October 2003, the SEC proposed the so-called shareholder access rule, a modest reform measure that would make it easier for concerned investors to place their own nominees on a company's board of directors. Currently, there is no practical way for shareholders to hold even failing corporate boards responsible.

Though the proposed regulation had the support of institutional investors, state treasurers, unions, corporate governance experts, and even SEC Chairman William Donaldson, the shareholder access rule was vehemently opposed by the CEOs of some of America's largest corporations. A year after first being introduced, the rule still has not seen the light of day.

That's largely because the Bush administration has sided with the CEOs against the shareholders. Apparently in deference to some of its biggest financial backers and corporate cronies, the Bush administration has worked to delay and debilitate a rule that would hold CEOs accountable to their shareholders. This is a classic case of money and access winning out over what is in the best interest of average citizens.

The Bush Administration, the Business Roundtable, and the U.S. Chamber of Commerce pressured the SEC to back down on the shareholder access rule.

- The Business Roundtable, a powerful association of 157 CEOs from the country's biggest corporations, lobbied the SEC against the shareholder access rule. Roundtable President John Castellani, then-Executive Director Patricia Engman, and at least eight executives from Roundtable member companies have lobbied SEC officials on the rule. Roundtable representatives met three times with SEC Chairman Donaldson and four times with two other SEC commissioners or staff after the rule was proposed.

- The Roundtable also pressured the White House, Treasury Department, Commerce Department and Congress to stop the shareholder access rule. Federal lobbying disclosure forms show that the Roundtable spent more than $12.8 million lobbying the federal government on the rule and other issues in 2003 and the first half of 2004, the most recent data available. The forms do not itemize how much was spent on each issue, but they do show that Castellani and Engman personally lobbied the Executive Office of the President on the rule. Five weeks after the shareholder access rule was proposed by the SEC, the Roundtable also tried to enlist the Office of Management and Budget in stopping the rule.

- The Bush administration dispatched Treasury Secretary John Snow – a former chairman of the Business Roundtable – to pressure SEC officials to weaken the shareholder access rule. According to one senior commission official, Snow served as the White House point man in making sure "the views of an administration eager to court the chief executives during an election year have been made clear to the chairman." Multiple SEC officials told four separate reporters that Snow let it be known that the White House does not want the rule to proceed.

- Under pressure from the Bush administration, the Roundtable and the U.S. Chamber of Commerce – which threatened to sue if the measure were implemented – Donaldson has delayed and proposed weakening the rule. After vowing in May to pass the rule even if it meant splitting the commission, by June Donaldson gave the first indications that he was backing off. An SEC official, speaking on the condition of anonymity, explained to a *Wall Street Journal* reporter that Donaldson "wants a compromise and he wants some access to be accomplished."

- Donaldson's delays in moving forward on the shareholder access rule infuriated Democratic SEC Commissioner Harvey J. Goldschmid, who declared in an October speech: "The commission's inaction to this point has made it a safer world for a small minority of lazy, inefficient, grossly overpaid and wrongheaded CEOs. So far, in my view, the worst instincts of the CEO community have triumphed."

- Departing from his earlier position that he would move forward without a unanimous vote, Donaldson now has said the SEC will not issue a final rule until it reaches "meaningful consensus" and that any further action is unlikely before Election Day – if at all.

The corporations opposed to the shareholder access rule include some of Bush's biggest financial backers.

- Public Citizen focused on 205 corporations opposed to the shareholder access rule – a group that consists of publicly traded, U.S.-based members of the Roundtable and the Chamber board as well as 43 unaffiliated corporations that filed comments against the rule. All told, these companies and their employees contributed $55.5 million to Bush's campaigns, the Bush-Cheney Inaugural Committee and the RNC during the past three election cycles.

- Fifty-three senior executives from corporations opposed to the rule qualified as "Rangers," "Pioneers" or "Super Rangers" – the honorary titles given to big-money bundlers who have collected at least $200,000 or $100,000, respectively, for the Bush campaigns or $300,000 for the Republican National Committee (RNC). These rainmakers personally have rounded up at least $8.3 million – and probably much more – for Bush campaign efforts in 2000 and 2004.

- These 53 rainmakers came from 40 different corporations – representing nearly one in every five companies that opposed the rule. All but two of the companies belonged to either the Roundtable or the Chamber board of directors.

- Seventy-nine percent of the $55.5 million total came from companies that belong to the Roundtable and their employees. The average company opposed to the rule, together with its employees, gave $270,650 to Bush campaign efforts from 2000 to 2004.

- Companies opposed to the rule and their executives poured $4.9 million into the Bush-Cheney Inaugural Committee, a "soft money" bonanza that funneled money directly to the incoming administration.

- The Roundtable and Chamber also created a fake "shareholders" group called Shareholders for Growth, which maintained a Web site to collect anti-rule comments and ran newspaper ads opposing the rule. The group's sole purpose seemed to be creating an illusion of shareholder opposition to the rule. But Shareholders for Growth was comprised almost entirely of other corporate-funded, pro-business groups, such as 60 Plus Association, Americans for Tax Reform and the National Association of Manufacturers.

The corporations opposed to the shareholder access rule exemplify the problems the rule seeks to address.

- Many of the corporations opposed to the shareholder access rule epitomize the types of corporate governance problems the rule is designed to address – such as questionable but lucrative financial relationships between top executives and the board of directors, exorbitant CEO pay packages, and a poor record of responding to shareholder concerns.

- Public Citizen's analysis of board ratings provided by the Corporate Library, an independent research firm that specializes in corporate governance issues, found that 46 percent of the corporations opposed to the shareholder access rule received a "D" or an "F" grade for Overall Board Effectiveness.

- Twenty-nine percent of the corporations opposed to the shareholder access rule paid directors for consulting, legal or banking services – a conflict of interest. Such side deals create a corporate culture where it becomes personally profitable for executives and directors to give each other a loose rein. Of the corporations opposing the rule, 64 percent of those with consulting, legal or banking side deals received a "D" or an "F" in "Overall Board Effectiveness" from the Corporate Library.

- Seventy-eight percent of the corporations opposed to the shareholder access rule employ one individual as both CEO and chairman of the board. But boards with separate CEOs and chairmen received better grades in "CEO Compensation" from the Corporate Library than those with one combined position. The 168 corporations opposed to the rule that had a joint CEO-chair position received an average "D+" grade in "CEO Compensation" from the Corporate Library.

- A significant majority of corporations opposed to the shareholder access rule award their executives questionable or inflated compensation packages. Excessive executive compensation is often an indicator that boards may be abrogating their fundamental responsibility to oversee executives on behalf of shareholders. Sixty-three percent of corporations opposed to the shareholder access rule received a "D" or an "F" grade in "CEO Compensation" from the Corporate Library.

- Many corporations opposed to the shareholder access rule use accounting gimmickry to disguise the effect of executive pay on their earnings. Seventy-six percent of the corporations opposed the shareholder access rule do not expense their stock options, which is a way of reducing expenses in order to inflate earnings. CEO pay is closely tied to earnings.

- One reason many corporate boards and CEOs have opposed the shareholder access rule could be that they fear the prospect of angry shareholders actually having an effective tool to hold them accountable. Shareholders have become more active on corporate governance issues: From 1999 to 2004, shareholder resolutions on corporate governance were up 66 percent – including more than 300 resolutions challenging executive pay filed in 2002 and 2003.

Part I

Bush Administration and the Business Roundtable Pressured the SEC to Back Down on the Shareholder Access Rule

The Shareholder Access Rule

An important element needed to strengthen corporate governance is a stronger, more active board of directors, and, to an increasing degree, a board that is independent of management. … Today, nominees and directors emerge from a system that really excludes meaningful input from shareholders. … In seeking to allow shareholders a greater prospective voice at companies where shareholders' voices are not being heard, the proposal will make those other changes work better.

— SEC Chairman William Donaldson, March 25, 2004[3]

The Securities and Exchange Commission proposed a new regulation, the shareholder access rule, on October 14, 2003. The rule, although relatively modest in scope, would revolutionize corporate democracy and shareholder rights if approved. Despite broad support by individual investors, state treasurers, pension funds, academics, and SEC Chairman William Donaldson – who called it "long overdue"[4] – the rule still hasn't been approved by the SEC a year later.

Currently, there is no practical way for shareholders of a corporation to hold even failing corporate boards responsible.

Under the current system, corporate boards of directors, whose role is to oversee company executives, nominate their own successors. When shareholders receive their annual report and director-election ballot – the so-called proxy statement – the names of the board's nominees are the only choices on the ballot. If a shareholder wants to contest the election, he must send campaign materials and a special write-in ballot to each shareholder at their own expense. Because a publicly held corporation has thousands, if not millions, of shareholders, this is an expensive, impractical, and rarely exercised option.

This system, under which even directors of failing or scandal-prone corporations rarely face challenges to their re-election or the election of their hand-picked successors, has been rightly described by one author as "procedurally much more akin to the elections held by the Communist Party of North Korea than those held in Western democracies."[5] Even "activist" institutional investors rarely bother with the process: Out of the approximately 10,000 publicly traded U.S. corporations, Institutional Shareholder Services – the primary proxy vote service provider for institutional investors – participated in only 30 contested director elections in 2003, down from 32 in 2002.[6]

The only other avenue of recourse, shareholder lawsuits, is usually not an option for holding directors personally accountable. State laws limit liability for directors absent proof of gross negligence, bad faith or disloyalty, and most states allow corporations to insure their directors against liability.[7] In the rare cases of a judgment against the board, the penalty is likely to be paid by shareholders indirectly through premiums for director and officer liability insurance. The shareholder access rule would, for the first time, produce consequences for directors who have failed in their duties by simply creating an opportunity for replacing unsatisfactory directors with better ones.

The SEC's proposed shareholder access rule would allow concerned investors to replace the leadership of a failing company.

The rule would allow a shareholder or group of shareholders that has held at least five percent of a corporation's stock for at least two years to place director nominees to compete with the board's own nominees on that corporation's proxy statement for a period of two years (which would typically cover two proxy statements). Shareholder access to the ballot – not election to the board – would be granted if one of two "triggers" were met:

- If any board-nominated director candidate received at least a 35 percent "no" vote from shareholders in an election.
- If a shareholder or group of shareholders that hold at least 1 percent of the corporation's stock put a proposal to trigger shareholder access on that year's proxy statement, and that proposal was approved by a majority of investors.

In either case, it would take a year for shareholder access to be granted because it would not apply until the following year's proxy statement. Also, the number of nominees that shareholders could put forth is severely limited by the rule: one for boards of eight directors or fewer, two for boards of nine to 19 directors, and three for boards with 20 or more directors. The SEC has estimated that about half of U.S. corporate boards have eight directors or fewer, about half have nine to 19, and very few have more than 20 directors.[8]

This modest reform has been fought strenuously by corporate CEOs and directors and, more than a year after it was proposed, has still not been passed.

Corporate governance experts have concluded shareholder inclusion in the director nomination process is a fundamental investor right that would aid corporate governance.

The Conference Board, an organization created in 1916 to be a "respected, not-for-profit, nonpartisan organization that would bring leaders together to find solutions to common problems and objectively examine major issues having an impact on business and society,"[9] contends that shareholder activism makes the corporate system work. The Conference Board established a blue-ribbon commission, which included former SEC chairman Arthur Levitt, ex-Federal Reserve Chairman Paul Volcker, and former Sen. Warren Rudman, to suggest solutions to the current investor confidence crisis. The commission concluded:

> *Shareholders, particularly long-term shareholders, should act more like responsible owners of the corporation. They should have not only the motivation, but also the ability to participate in the corporation's election process through involvement both in the nomination of directors and in proposals in the company's proxy statement about business issues and shareowner concerns regarding governance of the corporation.*[10]

The heads of 12 major European and Australian investment firms agreed, filing comments with the SEC in support of the rule that said "proper access to the proxy is normally a basic ownership right" in England, Australia, France, Germany, India, Ireland, New Zealand, South Africa, Sweden "and other jurisdictions where statutes are modeled on UK company law."[11]

The shareholder access rule is broadly supported by individual investors, institutional investors, unions, editorial boards, academics and business schools.

Far from being promoted "only by institutional investors with their own political agenda," as the U.S. Chamber of Commerce has claimed, the shareholder access rule is supported by a broad coalition of investors:

- Twelve state treasurers and comptrollers, the New York City comptroller, and the New Jersey State Investment Council chairman filed comments supporting the rule.
- Thirty-five independent mutual funds and investment managers filed comments supporting the rule.
- Fifteen foreign investment funds filed comments supporting the rule.
- Fifteen national pension funds and 65 state or local pension funds filed comments supporting the rule.

Additionally, as noted by Alan Beller, director of the SEC Division of Corporation Finance, "virtually every investor with a computer, typewriter, pen or pencil has expressed support for some version of this proposal."[12] More than 16,000 people and organizations sent the SEC comments on the rule – the largest number of comments ever received by the commission – most of which favored the measure.[13]

Under Pressure from the Bush Administration and the Business Roundtable, the Shareholder Access Rule Remains in Limbo

In the summer of 2003, when the proposed shareholder access rule was still being written by SEC staff, Donaldson repeatedly voiced strong support for it. In August 2003, he called the shareholder access reforms "a revolutionary undertaking by the SEC. … I believe it's long overdue."[14] He has likened the current system of selecting directors to elections in the former Soviet Union – they're "not really an election at all"[15] – and said it "really excludes meaningful input from shareholders."[16]

Donaldson's support for the rule was so strong that he stated in early May 2004 that he "couldn't care less" if the shareholder access rule was approved in a 3-to-2 vote (both Republican commissioners already had expressed opposition to the rule).[17] Indeed, Donaldson has been willing to split the commission's vote in the past, passing regulations requiring independent chairmen at mutual funds and the registration of hedge fund advisers over the objections of the two Republican commissioners.[18]

But despite having the two votes he needed to pass the shareholder access rule – the two Democratic commissioners are backing the reform[19] – Donaldson has delayed moving forward. Another SEC rule regarding director nominations, which was drafted by the SEC staff at the same time as the shareholder access proposal, was formally introduced by the commission on Aug. 8, 2003, and approved less than four months later at the end of November.[20] By comparison, the shareholder access rule remains stuck in limbo more than a year after it was formally proposed by the commission. [See Figure 1 for a complete timeline.]

The CEOs of America's largest corporations heavily lobbied the SEC against the shareholder access rule.

The Business Roundtable, a powerful association of 157 CEOs from the country's biggest corporations, has led a large corporate coalition against the rule. Roundtable President John Castellani, then-Executive Director Patricia Engman, and at least eight executives from Roundtable member companies have lobbied SEC officials on the rule. Roundtable representatives met three times with SEC Chairman Donaldson and four times with two other SEC commissioners or staff after the rule was proposed:[21]

- On Oct. 15, 2003, a day after the rule was proposed, Roundtable representatives – including Castellani, Engman, International Paper Executive Vice President James Melican, and J.P. Morgan Chase Corporate Secretary Anthony Horan – met with Republican SEC Commissioner Cynthia Glassman and her counsel, Brian Stern, on the rule.[22]

- On Oct. 15, 2003, Roundtable representatives – including Castellani, Engman, Melican, and Fannie Mae Vice President Monica Medina – met with Republican SEC Commissioner Paul Atkins and his counsel, David Nason, on the rule.[23]

- On Nov. 5, 2003, Roundtable representatives met with the SEC's Donaldson, Alan Beller, director of the Division of Corporation Finance, and Patrick Von Bargen, the managing executive for policy and staff, suggesting that the agency delay acting on the proposal.[24]

- On March 30, 2004, Roundtable representatives – including Castellani, Pfizer's Hank McKinnell and AutoZone CEO Steve Odland, chairman of the Roundtable's Corporate Governance Task Force – met on the rule with the SEC's Donaldson, Beller, Von Bargen, and Martin Dunn, deputy director of the Division of Corporation Finance.[25]

- On March 31, 2004, Roundtable members including James McNerney of 3M, Jeffrey Immelt of General Electric, and Alan Lafley of Proctor & Gamble participated in a conference call on the rule with Donaldson, Beller, Von Bargen, Dunn, and Lillian Brown, special counsel to the SEC Office of Mergers and Acquisitions.[26]

- On April 21, 2004 Castellani held a phone meeting with Dunn.[27]

- On April 23, 2004, Engman held a phone meeting with Dunn.[28]

The Roundtable and U.S. Chamber of Commerce also sent four representatives to testify at a March 2004 SEC hearing on the rule, including Franklin Raines, chairman and CEO of Fannie Mae and co-chairman of the Roundtable.[29]

In addition to the lobbying done by the Roundtable officials and CEOs, the Roundtable paid $600,000 to the firm Gibson Dunn & Crutcher to lobby the SEC and Congress on the rule in 2003.[30] In just the first six months of 2004, as they turned up the heat on the SEC to back down on the rule, the Roundtable paid another $1.2 million to Gibson Dunn to lobby the SEC on "procedures on shareholder access and on mutual fund governance."

Gibson Dunn's team of lobbyists included Amy Goodman, who worked for 11 years in the SEC Division of Corporate Finance, former Rep. Dick Zimmer (R-N.J.), and Douglas Cox, a principal deputy assistant attorney general in the first Bush administration who also worked on the legal team representing Bush during the 2000 Florida recount.[31]

The Business Roundtable also pressured the White House, Treasury Department, Commerce Department and Congress to stop the shareholder access rule.

The corporate coalition led by the Roundtable fought the rule on several fronts, including direct lobbying of the Bush administration and Congress. Federal lobbying disclosure forms show that the Roundtable spent more than $12.8 million lobbying the federal government on this and other issues in 2003 and the first half of 2004, the most recent data available.[32] The forms do not itemize how much was spent on each issue or reveal exactly which officials were contacted by the lobbyists. However, the Roundtable did disclose that:

- In the first six months of 2003, Castellani and Engman personally lobbied the Department of Commerce on the shareholder access rule in addition to visits to the House, Senate and SEC.[33]

- During the second half of 2003, Castellani and Engman personally lobbied the Executive Office of the President "on the SEC's 'proposed election contest rules' to require companies to include shareholder nominees for director in company proxy materials under certain circumstances."[34]

- In the first half of 2004, Castellani, Engman and two other Roundtable officials again lobbied against the shareholder access rule at the Executive Office of the President as well as at the Treasury Department.[35]

Five weeks after the shareholder access rule was proposed by the SEC, the Roundtable also tried to enlist the Office of Management and Budget (OMB) in stopping the rule. The Roundtable asked the OMB in a letter on November 21, 2003 to "disapprove the [SEC's] proposed collection of information requirements," referring to the legally required stage of the rulemaking process when an agency collects public comments on a proposed rule. The Roundtable cited "irregular aspects of the rulemaking" and claimed that the SEC "provides no rationale for the proposed rule."[36] By requesting that the comment-collection process be scuttled, the Roundtable was effectively asking the administration to shut down the rule, because it could not be adopted without a comment period. OMB took no official action on the Roundtable's request.

The Bush administration dispatched Treasury Secretary John Snow to pressure SEC officials to weaken the shareholder access rule.

The Roundtable's intense lobbying of the White House and the Treasury Department apparently paid off. According to SEC officials, Snow served as the White House point man in trying to persuade Donaldson to back down on the rule. Snow was particularly ill-suited for this role, having had his own corporate governance controversies when he was chairman and CEO of CSX. Snow also served as chairman of the Roundtable from 1994 to 1996. [See below, "A Case for Reform: John Snow and CSX"]

The SEC has not filled a four-month-old Public Citizen Freedom of Information request for communications between top Bush officials and the SEC, which has made it impossible to independently confirm Snow's efforts to strong-arm the agency and scuttle the rule. However, multiple SEC officials told four separate reporters that Snow has made it clear the White House does not want the rule to proceed:

- "SEC officials have also heard from Bush administration officials, notably Treasury Secretary John W. Snow, a former leader of the Business Roundtable, about problems with the proxy proposal. … 'On each of the issues, the chairman is under immense political and industry pressure,' a senior commission official said. 'The heaviest pressure has been coming on the proxy battle, where the views of an administration eager to court the chief executives during an election year have been made clear to the chairman.'" – Stephen Labaton, *New York Times*, May 10, 2004[37]

- "Other officials within the administration, including Treasury Secretary John W. Snow, have contacted Donaldson to discuss the original proposal and its potential impact on businesses, according to two SEC sources, who would speak only on condition of anonymity." – Carrie Johnson, *Washington Post*, June 8, 2004[38]

- "Treasury Secretary John Snow … has talked to Donaldson about the issue, sources said." – Peter Stone, *National Journal*, June 19, 2004[39]
- "Mr. Snow also has criticized the proposal, according to SEC officials." – Deborah Solomon, *Wall Street Journal*, Aug. 13, 2004[40]

Under pressure from the Bush administration and the Business Roundtable, SEC Chairman William Donaldson has delayed and proposed weakening the rule.

After vowing in May to pass the rule even if it meant splitting the commission, by June Donaldson gave the first indications that he was backing off. An SEC official, speaking on the condition of anonymity, explained to a *Wall Street Journal* reporter that Donaldson "wants a compromise and he wants some access to be accomplished."[41]

Donaldson reportedly has made one large concession to the Business Roundtable. According to SEC sources, he tentatively agreed to drop the "trigger" that would allow shareholders to grant themselves access to the proxy statement with a majority vote at a corporation's annual meeting.[42]

A Case for Reform: John Snow and CSX

During the last six full years that John Snow was chairman and CEO of CSX, from 1996 to 2001, the railroad's net income declined 66 percent and its stock lost 8 percent of its value.[43] Despite his poor leadership, the board that Snow headed increased his compensation over that period by 74 percent, to $10.1 million in 2001.[44] Even though each of the four other major railroad stocks performed better than CSX's stock over that period,[45] Snow was paid almost twice as much as the next highest-paid executive, David Goode of Norfolk Southern.[46] Snow secured this pay package in part because his board replaced a stock option plan that was linked to CSX's falling stock price – and should have *cost* Snow $10 million – with a $4.3 million payment.[47] Snow was chairman of the Business Roundtable, the association of America's biggest CEOs, from 1994 to 1996.[48] President Bush nominated him to be treasury secretary in December 2002.

CSX and its employees have contributed $318,900 to Bush and the RNC since the 2000 election cycle. Former CSX Vice Chairman Alvin Carpenter was a "Pioneer" in 2000. CSX CEO Michael Ward is a member of the Business Roundtable, which opposes the shareholder access rule.

Donaldson is also reportedly considering two more concessions that would effectively gut the reform:

- Donaldson has proposed raising the threshold for triggering shareholder access by increasing the number of "no" votes needed against a board-nominated director from 35 percent to 50 percent.[49]

- Donaldson reportedly has been "exploring" the Roundtable's "proposal for cure," which would give a board of directors the chance to circumvent the "no" vote trigger. Under the Roundtable's plan, if a board-nominated director received more than the specified level of "no" votes (either 35 percent or 50 percent), the board would be allowed to withdraw that nominee and put his replacement up for a vote the following year. Then, only if *that* nominee received the specified level of "no" votes, would shareholder access to the ballot be triggered.[50]

This proposal is opposed by both Democratic commissioners[51] and reformers like AFL-CIO associate general counsel Damon Silvers, who said "the way to fix a dead board isn't by shifting the deadwood."[52]

Despite Democratic discontent, Donaldson says the shareholder access rule won't be finalized before Election Day, if at all.

Donaldson's delays in moving forward on the shareholder access rule infuriated Democratic SEC Commissioner Harvey J. Goldschmid, who bemoaned the lack of progress in an Oct. 8, 2004, speech to the Investor Responsibility Research Center. "The commission's inaction to this point has made it a safer world for a small minority of lazy, inefficient, grossly overpaid and wrongheaded CEOs," Goldschmid declared. "So far, in my view, the worst instincts of the CEO community have triumphed."[53]

SEC officials told the *New York Times* that Goldschmid's comments came after "months of futile negotiations" with Donaldson and signaled that the shareholder access rule "was doomed, at least under the current leadership of the agency."[54]

A Case for Reform: Philip Condit and Boeing

The Business Roundtable has claimed that "the strengthened corporate governance standards our members are implementing are critical to restoring the credibility of the U.S. corporate governance system."[55] But at the same time the organization was kicking off its campaign to fight the shareholder access rule, then-Roundtable Chairman Philip Condit's company – Boeing – was being investigated for defrauding the Defense Department. Boeing allegedly promised to hire a Defense Department employee who was negotiating an air-tanker deal with the company. Boeing's former chief financial officer – who was sacked by the company in late November 2003 – has been charged with lying to the government.[56] Condit resigned as chairman and CEO of Boeing in December 2003, when he was also quickly replaced as head of the Roundtable.[57]

Boeing has contributed $628,929 to Bush and the RNC since the 2000 election cycle, and one of its retired executives, Travis O. Thompson, is a Bush "Ranger." Boeing filed opposition to the shareholder access rule with the SEC.

Departing from his earlier position that he would move forward with out a unanimous vote, Donaldson now has said the SEC will not issue a final rule until it reaches "meaningful consensus" and that any further action is unlikely before Election Day.[58] "It is too much in a political environment of 2004," he told the *Times*. "That's not an environment that fosters clear thinking. It's an environment in which it is too difficult to get an agreement."[59]

But Donaldson didn't seem too troubled by the further delay. "Put this into context," he added, "On this issue the commission has done nothing for 40 years."[60]

Of course, there's no guarantee that Donaldson – and his deciding vote – will be at the SEC after the election, even if Bush secures a second term. Although the agency is officially independent, Donaldson acknowledges, "I do serve at the pleasure of the president."[61]

Figure 1
Shareholder Access Rule Timeline

January-July 2003	Business Roundtable lobbies Department of Commerce, SEC and Congress on the shareholder access rule.[62]
April 14, 2003	SEC directs its Division of Corporate Finance to recommend changes to director election procedures.[63]
July 15, 2003	SEC Division of Corporate Finance delivers recommendations for two rules: the shareholder access rule and a second rule governing director [64]
July-December 2003	Roundtable lobbies Executive Office of the President, SEC and Congress on the shareholder access rule.[65]
August 1, 2003	SEC Chairman William Donaldson says shareholder access rule is "long overdue."[66]
Aug. 8, 2003	SEC formally proposes the second rule governing director nominations.[67]
Sept. 15, 2003	Comments for the second rule due.[68]
Oct. 14, 2003	SEC formally proposes the shareholder access rule.[69]
Oct. 15, 2003	Roundtable representatives meet about the shareholder access rule with Republican SEC Commissioners Cynthia Glassman and Paul Atkins.[70]
Nov. 3, 2003	Roundtable- and U.S. Chamber of Commerce-backed group called "Shareholders for Growth" runs first ads opposing the shareholder access rule.
Nov. 5, 2003	Roundtable representatives meet with Donaldson and other SEC staff to discuss the shareholder access rule.[71]
Nov. 21, 2003	Roundtable letter asks the OMB to scuttle the shareholder access rule based on "irregular aspects of the rulemaking."[72]
Nov. 24, 2003	SEC formally adopts the second rule governing director nominations.[73]
Dec. 22, 2003	Comments due for the shareholder access rule.[74]

January-July 2004	Roundtable lobbies Executive Office of the President, Treasury Department, SEC and Congress on the shareholder access rule.[75]
Feb. 9, 2004	SEC announces a new hearing on the shareholder access rule and the extension of the comment period through March 31, 2004.[76]
March 10, 2004	Four Roundtable and Chamber representatives testify at SEC hearing against the shareholder access rule.[77]
March 10, 2004	Chamber President Tom Donahue threatens to sue the SEC if the agency implements the shareholder access rule.
March 30, 2004	Roundtable representatives meet with Donaldson and other SEC staff on the shareholder access rule.[78]
March 31, 2004	Roundtable representatives participate in conference call with Donaldson and other SEC staff on the shareholder access rule.[79]
March 31, 2004	Second deadline for comments on the shareholder access rule.[80]
April 21, 2004	Roundtable president holds a phone meeting with the deputy director of the SEC Division of Corporate Finance.[81]
April 23, 2004	Roundtable executive director holds a phone meeting with the deputy director of the SEC Division of Corporate Finance.[82]
May 6, 2004	Donaldson voices support for the shareholder access rule, saying he "couldn't care less" if it was approved by a 3-to-2 vote.[83]
May 10, 2004	*New York Times* reports that Treasury Secretary John Snow is pressuring Donaldson to back down on the shareholder access rule.[84]
June 8, 2004	SEC official tells the *Wall Street Journal* that Donaldson "wants a compromise" and will accept a watered-down version of the rule.[85]
Oct. 8, 2004	Nearly a year after the rule was introduced, SEC Commissioner Harvey J. Goldschmid says, "the worst instincts of the CEO community have triumphed."
Oct. 8, 2004	Donaldson insists the final rule will not proceed without consensus but says an election year is "an environment in which it is too difficult to get an agreement."

Part II

The Corporations Opposed to the Shareholder Access Rule Include Some of Bush's Biggest Financial Backers

The Coalition Opposed to the Shareholder Access Rule Includes Politically Powerful Business Trade Associations and Corporations

When the SEC formally proposed the shareholder access rule on October 14, 2003, the directors and CEOs of some of the country's biggest and most politically connected corporations scrambled to organize opposition to a reform that would hold them accountable to their shareholders. Eventually, the CEOs or directors of 95 public corporations filed comments with the SEC opposing the rule. Additionally, two powerful business associations active in the fight against the rule – the Business Roundtable and U.S. Chamber of Commerce – filed opposition comments on behalf of their membership, bringing the total number of public corporations opposed to the rule to 205.

Two of the nation's most powerful business associations led the fight against the shareholder access rule.

- **The Business Roundtable:** This association of 157 CEOs from America's biggest corporations has been described by SEC Chairman Donaldson as "apoplectic" about the shareholder access rule.[86] The Roundtable filed comments opposing the rule on behalf of its members,[87] 134 of whom lead American public corporations (the other 23 companies are either private or foreign companies unaffected by the rule).[88] In addition, 49 publicly traded companies represented in the Roundtable filed their own comments opposing the rule with the SEC. [See Figure 2]

  The Roundtable is unusual among business associations because it is comprised exclusively of CEOs. Led by President John Castellani and Chairman Hank McKinnell, who is the chairman and CEO of Pfizer, the Roundtable has one of the most formidable lobbying operations in Washington, having spent more than $12.8 million to influence the federal government from 2003 through the first half of 2004.[89]

- **U.S. Chamber of Commerce:** The Chamber is the other major player in the public fight against the rule. The national organization has 2,800 local chambers, which collectively represent more than 3 million businesses.[90] The Chamber does not disclose its membership list,[91] so the extent of its members' involvement in the shareholder access rule is difficult to determine. However, the Chamber does disclose the identities of its 106 board members, 48 of whom represent U.S. public corporations.[92] The involvement of those 48 corporations is examined here.

  Headed by President and CEO Thomas Donohue – who himself is a member of four corporate boards[93] – the Chamber spent more than $36.6 million lobbying the federal government from 2003 through the first six months of 2004.[94] The Chamber filed comments with the SEC opposing the rule, as did 13 of the 48 individual companies represented on its board. The Chamber is so opposed to the rule that it has set aside its supposed aversion to lawsuits and has threatened to sue the SEC if the agency proceeds with the rule.[95] (The group already filed suit over new SEC mutual funds rules.)[96]

- Fifty-two of the 95 corporations that filed individual comments opposing the shareholder access rule were members of either the Roundtable or the Chamber's board of directors. (Ten companies that filed comments belonged to both groups.) In addition, 43 corporations unaffiliated with either trade association also filed comments against the rule.

- The 95 individual companies that filed individual comments opposing the shareholder access rule rank among the largest corporations in the country – 67 are members of the *Fortune* 500.[97] Their average 2003 revenues were $18.8 billion.[98]

Figure 2
Affiliation of Individual Corporations that Filed Comments Opposing the Rule

Group	Public Corporations in Membership	Number of Commenters	Percentage of Group's Members that Commented
The Business Roundtable	134	49	37%
U.S. Chamber of Commerce Board of Directors	48	13	27%
Unaffiliated Corporations	43	43	n/a
Total	**205***	**95***	**n/a**

Sources: Securities and Exchange Commission, Business Roundtable, U.S. Chamber of Commerce and Public Citizen research.
* Totals do not equal sum of rows above due to overlap in group membership.

Other leading business groups also filed comments opposing the shareholder access rule.

In addition to the efforts of the Roundtable, the Chamber and individual companies, several other business groups filed comments opposing the rule. They include the Financial Services Roundtable, America's Community Bankers, the Employment Policy Foundation, and the Independent Community Bankers of America.[99] While they did file opposition to the SEC, they were not as active in opposing the rule as the Chamber and Roundtable, and their members are not included in this report.

The Business Roundtable and U.S. Chamber of Commerce created a fake "shareholders" group – Shareholders for Growth – to oppose the rule.

Shareholders for Growth's sole purpose seemed to be creating the illusion of popular opposition to the SEC rule. The first public sign of the group was an anti-rule ad that ran on November 3, 2003,[100] less than three weeks after the rule was proposed. The group's formation was formally announced on December 19, 2003.[101]

The group publishes no address, phone number or contact information; its Web site manager refused to divulge who paid for the site.[102] But an internal U.S. Chamber of Commerce document obtained by Public Citizen describes how the Chamber and Business Roundtable joined seven "other organizations to form Shareholders for Growth, an alliance opposing the SEC's shareholder access proposal."[103] All but one of the organizations in Shareholders for Growth are corporate-funded, pro-business groups.

- **60 Plus Association**, a senior citizens group, appears to be heavily funded by the pharmaceutical industry. It has aired numerous ads in support of mostly Republican candidates. According to the group's 2002 Form 990 filing with the IRS, 60 Plus received $11 million (91 percent of its total revenue) from one undisclosed donor. Evidence strongly suggests this donor was PhRMA, the trade association for the brand name pharmaceutical industry.[104] Business Roundtable Chairman Hank McKinnell's company, Pfizer, is a leading member of PhRMA.

- **Americans for Tax Reform** is an anti-tax group headed by Grover Norquist, a conservative leader whose strategy sessions are regularly attended by Republican heavyweights and White House officials. ATR runs the "K Street Project," which is designed to coerce trade associations and corporations to hire Republican lobbyists. ATR's major funders include Philip Morris, Microsoft, Pfizer, AOLTimeWarner and UPS.[105]

- **American Shareholders Association** is a group set up by ATR that purports to be an "advocacy group for the nation's stockholders."[106] The group posts no information about a board or members on its Web site, but it is funded at least partially through ATR[107] and is run by Executive Director Daniel Clifton, who also works for ATR.[108]

- **Frontiers of Freedom** is a non-profit group run by former Republican Wyoming Senator Malcolm Wallop.[109] While it appears to be the only group in Shareholders for Growth that is not explicitly corporate-backed, it is based just outside of Washington, lists no affiliates or leaders under its "state affiliates" and "state leaders" Web pages,[110] and does not disclose the size of its membership.[111] The group says its agenda "includes preservation of property rights and reform of the Endangered Species Act, the privatization of Social Security, protection of civil liberties and the defeat of such big government initiatives as the anti-terrorism bill and the national ID card legislation, and reform of the Food and Drug Administration."[112]

- **Minority Business Roundtable** is an association of CEOs of minority-owned businesses that range in size from $53 million to over $2 billion in annual revenues. It lists both the U.S. Chamber of Commerce and the Business Roundtable as "strategic partners."[113] MBRT Chairman Houston Williams also sits on the U.S. Chamber's Board.[114]

- **National Association of Manufacturers** represents American manufacturing companies and hails itself "the nation's largest industrial trade association."[115] In September 2004, NAM named former Michigan Gov. John Engler as its new president – succeeding Jerry Jasinowski, who had led the group for 15 years. Engler raised at least $100,000 for Bush in 2000 and was named a Pioneer.[116] Among the group's former chairmen are two other major Bush fundraisers: Ohio steelmaker W.R. "Tim" Timken Jr.,[117] a Ranger who raised at least $200,000 for Bush in 2004,[118] and Archie Dunham,[119] chairman of ConocoPhillips, who pledged to become a Pioneer in 2000 and personally gave $100,000 to the Bush-Cheney Inaugural Committee.[120]

- **U.S. Pan Asian American Chamber of Commerce** describes itself as a "national, non-profit business organization representing all Asian Americans and Asian American-related groups in business."[121] More than a third (10 of 27) of the USPAACC Corporate "Gold Member" funders also hold seats on the Business Roundtable, including Coca-Cola, Exxon Mobil and Morgan Stanley; more than a fifth hold seats on the U.S. Chamber of Commerce Board of Directors.[122]

Shareholders for Growth has not updated its Web site or engaged in any other noticeable activities since the SEC stopped accepting comments for the rule in March 2004.[123] But during its short period of activity, Shareholders for Growth:

- Maintained a Web site that generated comments filed directly with the SEC opposing the shareholder access rule, using language culled from the original Roundtable comments filed against the rule.[124] The Roundtable encouraged its members to use the site.[125]

- Ran anti-rule ads in the *Wall Street Journal*, *Roll Call* and the *Washington Post* that, among other things, purported to be from "individual shareholders [who] are alarmed by a proposed change in the SEC's proxy rules."[126]

- Collected anti-rule comments to submit to the SEC from four Ohio state legislators and a Delaware state representative.[127]

Members of Shareholders for Growth and their lobbyists also tried to stir up opposition to the rule by publishing op-ed articles in investor publications:

- A lobbyist at Hale & Dorr – which lobbies for Eaton Corp. and EMC Corp., two Business Roundtable members that also filed their own comments on the rule – published an op-ed in the *Daily Deal* in October 2003 warning that, under the rule, "efficient, collaborative decision-making will diminish and posturing will replace candor."[128]

- A lobbyist for Latham & Watkins, whose clients include the Business Roundtable, published an op-ed in the *Daily Deal* in November 2003, claiming the rule would "wreak corporate governance havoc."[129]

- U.S. Chamber President Tom Donohue published an op-ed in *Investor's Business Daily* in December 2003 claiming that the rule "has the potential to invest enormous power in a small number of special interest investors at the expense of all others."[130]

Corporations Opposed to the Shareholder Access Rule Contributed Millions to Bush's Presidential Campaigns

In the wake of the corporate scandals of 2002, President Bush promised to "usher in a new era of integrity in Corporate America."[131] But when a mild reform measure – the shareholder access rule – faced major opposition from dozens of the president's biggest financial backers, the Bush administration sided with the CEOs of America's largest corporations instead of the shareholders.

The country's top CEOs are heavily invested in the Bush campaign and the Republican Party. Nearly one in every 10 Rangers and Pioneers hails from a corporation opposed to the shareholder access rule. Many of these executives are members of the Business Roundtable[132] – including four men who have served as chairman of the group – or the U.S. Chamber of Commerce Board of Directors.

The administration's effort to squelch the shareholder access rule should be no surprise considering the millions personally collected for Bush by these rainmakers – and tens of millions more contributed by their companies and employees to Republican National Committee, whose principal mission is to elect the president.

Campaign contributions to presidential campaigns were capped at $1,000 per election per person in 2000 and rose to $2,000 per election per person in 2004. Because raising large amounts of money under these caps is difficult, the Bush campaigns used surrogate fundraisers to raise and "bundle" together numerous checks from individuals. The campaigns developed a sophisticated system where each fundraiser was given a personal tracking number to put on each check so his progress could be recorded. When a fundraiser bundled $100,000 in checks, the campaign gave him the honorary title of Pioneer. In 2004 the campaign created a separate Ranger title for fundraisers who collected at least $200,000. The Republican National Committee (RNC) also started a Super Ranger program for fundraisers who collected at least $300,000 in addition to their contributions to the Bush campaign.

Corporations opposed to the shareholder access rule produced 53 Rangers, Pioneers and Super Rangers for the Bush-Cheney campaigns and the RNC.

- Rangers and Pioneers from corporations opposed to the rule raised at least $8.3 million – and probably much more – for Bush and the RNC in 2000 and 2004. Nine of the fundraisers pledged to become Pioneers in 2000, but the Bush campaign would not confirm if they reached their goal or exactly how much any of the bundlers actually collected. [See Figure 3]

- These 53 rainmakers came from 40 different corporations – representing nearly one in every five companies that opposed the rule. All but two of the companies belonged to either the Business Roundtable or the U.S. Chamber of Commerce Board of Directors. [For a full list, see Appendix A: Roster of Rangers, Pioneers, and Super Rangers from Corporations Opposed to the Shareholder Access Rule]

Figure 3
Affiliation of Rangers, Pioneers and Super Rangers from Corporations Opposed to the Shareholder Access Rule, 2000 and 2004

Commenting Group (No. of Public Corporations)	**Election Cycle**				**Totals**	
	2000	**2004**			**Bush Bundlers†**	**Minimum $ Raised**
	Pioneers‡	**Rangers**	**Pioneers**	**Super Rangers**		
The Business Roundtable (134)	16	18	11	3	44	$6.5 million
U.S. Chamber of Commerce Board (48)	4	4	5	--	11	$1.6 million
Unaffiliated Corporations (43)	2	1	3	1	4	$900,000
TOTAL (205)*	**22***	**21***	**16***	**4***	**53***	**$8.3 million***

Source: Public Citizen research and analysis of Bush campaign disclosures, www.WhiteHouseforSale.org.
* Totals do not equal sum of rows above due to overlap in group membership.
† Some 2000 Pioneers also bundled for Bush in 2004; most Super Rangers also qualified as either Rangers or Pioneers.
‡ Nine 2000 Pioneers pledged to raise $100,000, but the campaign would not confirm if the bundler reached the goal or how much was collected.

The corporations opposed to the shareholder access rule and their employees have given millions to Bush's campaigns and the RNC.

- The 205 corporations opposed to the shareholder access rule and their employees contributed $55.5 million to Bush's campaigns, the Bush-Cheney Inaugural Committee and the RNC during the past three election cycles. Seventy-nine percent of that total came from companies that belong to the Roundtable and their employees. [See Figure 4 and Appendix B: Corporations Opposed to the Shareholder Access Rule.]

- The average company opposed to the rule, together with its employees, gave $270,650 to Bush campaign efforts from 2000 to 2004.

- Individual "hard money" contributions to the Bush campaign from corporations opposed to the rule and their employees more than doubled from 2000 to 2004, rising from $3.2 million to $7.5 million.

- Companies opposed to the rule and their executives also poured $4.9 million into the Bush-Cheney Inaugural Committee. This "soft money" bonanza directly funneled money to the incoming administration under the guise of funding festivities to honor the president.

Figure 4
Campaign Contributions to the Bush Campaigns and the RNC from Corporations Opposed to the Shareholder Access Rule, 2000-2004

Commenting Group (No. of Public Corporations)	**Election Cycle**						**Total**
	2000		**2002**		**2004**		
	Bush	**RNC**	**Inaugural**	**RNC**	**Bush**	**RNC**	
The Business Roundtable (134)	$2,342,583	$14,319,954	$4,167,500	$12,922,311	$6,466,763	$3,796,744	$44,015,855
U.S. Chamber of Commerce Board (48)	$593,835	$5,032,111	$1,005,000	$4,409,052	$1,315,815	$819,613	$13,175,426
Unaffiliated Corporations (43)	$614,287	$2,676,073	$463,800	$2,369,108	$528,798	$249,135	$6,901,201
TOTAL (205)*	**$3,213,595***	**$18,530,037***	**$4,931,300***	**$16,934,111***	**$7,467,110***	**$4,407,183***	**$55,483,336***

Source: Public Citizen analysis of data provided by the Center for Responsive Politics. Totals include contributions from political action committees and individual members or employees of an organization, as well as unrestricted "soft money" donations from individuals and corporate treasuries before the 2004 election cycle (when such donations became illegal). Contribution data are as of October 1, 2004.
* Totals do not equal sum of rows above due to overlap in group membership.

The RNC totals are included in this report because the party's federal campaign efforts directly support the president. In the 2000 and 2002 election cycles, before the Bipartisan Campaign Reform Act (BCRA) became law, the RNC could legally accept unlimited contributions directly from corporations and wealthy individuals. It was also allowed to use those contributions for unlimited Bush campaign advertisements. Before BCRA took effect following the 2002 elections, there was a rush of unrestricted "soft money" to the parties.

After BCRA, the national party committees could no longer accept "soft money." They are now limited to "hard money" from individuals capped at $25,000 per person per year. The effect of BCRA can be seen in the significant drop-off in corporate giving to the RNC in 2004.

The RNC is still allowed to use its "hard money" funds for get-out-the-vote activities and can spend up to about $16 million on advertising coordinated with the Bush campaign. However, a loophole discovered after the law was passed is allowing the RNC to spend an unlimited amount on ads that include mention of the overall agenda of the party or Republicans in Congress. The RNC had spent about $15 million in the three weeks following the Republican National Convention on ads that spotlighted Bush and were coordinated with his campaign and shows no signs of stopping.[133]

Part III

Corporations Opposed to the Shareholder Access Rule Exemplify the Problems the Rule Seeks to Address

Many Corporations Opposed to the Shareholder Access Rule Have Ineffective Boards and Major Conflicts of Interest

Many of the corporations opposed to the shareholder access rule exemplify the types of corporate governance problems the rule is designed to address – such as questionable but lucrative financial relationships between top executives and the board of directors, exorbitant CEO pay packages, and a poor record of responding to shareholder concerns.

The Corporate Library is an independent research firm that specializes in corporate governance issues. It operates the BoardAnalyst.com Web site, which provides screening tools, comparative data, and ratings for directors and boards of more than 2,000 U.S. companies, including 197 of the 205 (94 percent) U.S. corporations opposed to the shareholder access rule. Public Citizen analyzed the board ratings for those 197 corporations and found that many fared poorly in several key corporate governance categories.

Many of the corporations opposed to the shareholder access rule have ineffective boards.

The Corporate Library gives a comprehensive "Overall Board Effectiveness" rating to boards.

- Forty-six percent (90 of 197) of the corporations opposed to the shareholder access rule received a "D" or an "F" grade for Overall Board Effectiveness from the Corporate Library.[134]

Poor "Overall Board Effectiveness" rankings are based on actual board actions which, according to the Corporate Library, indicate a "likelihood of investor or underwriter loss."[a] The high number of poorly-ranked boards of corporations opposed to the rule is reflected in poor rankings in other categories as well a high incidence of questionable business practices.

Twenty-nine percent of the corporations opposed to the shareholder access rule paid directors for consulting, legal or banking services – a conflict of interest.

Related party transaction data disclosed by corporations and available from the Corporate Library show that directors at these corporations received compensation from side deals.[135]

These deals are on top of the usual flat or per-meeting fee paid to directors for their service and are arranged and executed by the corporation's executives. They create a corporate culture where it becomes personally profitable for executives and directors to give each other a loose rein. Directors want to preserve their side deals, so they provide lax supervision of executives and approve excessive pay packages. Executives want to preserve those pay packages, so they renew

[a] **Overall Board Effectiveness:** This rating is a composite rating that identifies weak, ineffective boards by their actual actions, rather than board policies and structures. They are not based on compliance with best practices checklists. The ratings are not relative to industry peers but are rather focused on identifying likely patterns of weak, ineffective governance, which greatly increases the likelihood of investor or underwriter loss.

or initiate new side deals with directors. This creates a strong conflict of interest for directors between their duties to shareholders and their personal financial gain.

Charles Elson, director of the Center for Corporate Governance at the University of Delaware, testified before Congress that the fees for these services create "the fear that if one [director] objects too strenuously [to management], those fees may disappear." Directors, Elson said, should have "no financial connection to the company whatsoever" other than their board compensation.[136]

A case in point on the potential consequences of these side deals is the collapse of Enron, which resulted in part from "the Board's failure to recognize its fiduciary obligations to set the company's overall strategic direction, oversee management, and ensure responsible financial reporting," according to the conclusion of a 2002 Senate committee investigation.[137]

At Enron, the Senate investigators found, "the Enron Board of Directors failed to safeguard Enron shareholders and contributed to [Enron's] collapse" by choosing to ignore "numerous indications of questionable practices by Enron management over several years."[138] The committee connected this failure back to the side deals between directors and executives:

> *The investigation found a Board that routinely relied on Enron management and [accounting firm Arthur] Andersen representations with little or no effort to verify the information provided, that readily approved new business ventures and complex transactions, and that exercised weak oversight of company operations. The investigation also identified a number of financial ties between Board members and Enron which, collectively, raise questions about Board member independence and willingness to challenge management.*[139]

The connection between these side deals and ineffective boards is further illustrated by the corporations that opposed the shareholder access rule. Boards that paid their directors for consulting, legal or banking services were more likely to receive a failing grade from the Corporate Library than those that did not:

- Of the corporations opposing the rule, 64 percent of those with director consulting, legal, or banking side deals received a "D" or an "F" grade in Overall Board Effectiveness from the Corporate Library. Only 40 percent of the corporations that did not have such side deals received a "D" or an "F."[140]

Seventy-eight percent of the corporations opposed to the shareholder access rule employ one individual as both CEO and chairman of the board.[141]

Like Enron, the vast majority of corporations opposed to the shareholder access rule have one individual serving as both CEO and chairman of the board. This person is ultimately responsible for assigning specific directors to the board's compensation committee *and* hiring the consultants upon whom many board compensation committees rely for recommendations – a clear conflict of interest that can lead to exorbitant CEO pay packages.

Boards with separate CEOs and chairmen received better grades in "CEO Compensation" [b] from the Corporate Library than those with a combined CEO-chair position:[142]

- The 44 corporations opposed to the shareholder access rule that had separate CEO and chair positions received an average "C" grade in "CEO Compensation" from the Corporate Library.[143] Twenty-one (48 percent) received a "D" or an "F" grade.

- The 153 corporations opposed to the shareholder access rule that had a joint CEO-chair position received an average "D+" grade in CEO Compensation.[144] One hundred four (68 percent) received a "D" or an "F" grade.

Recent corporate reforms are not adequate to ensure strong boards that are independent from management.

Opponents of the shareholder access rule, like the Business Roundtable, argue that recent corporate reforms like the New York Stock Exchange's independence requirements for boards are sufficient to safeguard shareholders from conflicted boards.[145] The NYSE regulations, however, only require that a majority of the members of a board meet a technical definition of "independence" – a lack of certain official business ties to the corporation. The boards at such scandal-rocked corporations as Tyco, WorldCom, Hollinger and Enron each had boards that would have met the new NYSE standard.[146] Furthermore, even as the Roundtable was making this claim, it was privately urging the NYSE to weaken the definition of "independent."[147]

[b] **CEO Compensation:** This grade is based on the balance of fixed and variable pay and how much variable pay is delivered in the form of stock, excessive amounts of which allow unscrupulous executives to inflate a company's finances and then cash in on temporary stock gains. Several "red flags" that negatively affect the CEO compensation rating are: a CEO base salary of over $1M, a CEO bonus greater than twice the annual salary, a declining number of CEO shares held, excessive CEO stock options holdings, and high tax or leisure expense payments.

Many Corporations Opposed to the Shareholder Access Rule Offer Excessive Compensation to Their Executives

Excessive executive compensation is often an indicator that boards may be abrogating their fundamental responsibility to oversee executives on behalf of shareholders. Excessive executive compensation drains company resources and, especially if it is in the form of stock awards, can create a powerful incentive for executives to engage in the kinds of accounting fraud that have rocked corporate America.

Sixty-three percent of corporations opposed to the shareholder access rule award their executives inflated pay packages.

Excessive and improper executive compensation would be near the top of the list of reasons shareholders would target a board under the shareholder access rule. When it comes to "CEO Compensation," most of the corporations opposed to the rule raise serious "red flags":

- 63 percent of CEOs at corporations opposed to the rule received a "D" or an "F" grade from the Corporate Library in the category of "CEO Compensation."[148]

Enron again offers a prime example of what can happen when a board fails to adequately supervise executive compensation packages. A Senate investigation found that the Enron board's failure to rein in executive pay was symptomatic of its larger failures to supervise the company:

> *The [Board] Compensation Committee approved excessive compensation for company executives, failed to monitor the cumulative cash drain caused by Enron's 2000 annual bonus and performance unit plans, and failed to monitor or halt abuse by Board chairman and Chief Executive Officer Kenneth Lay. … The Compensation Committee appeared to have exercised little, if any, restraint over Enron's compensation plans, instead deferring to the compensation plans suggested by management and the company's compensation consultants.*[149]

Many corporations opposed to the shareholder access rule use accounting gimmickry to disguise the effect of executive pay on their earnings.

In order to hide the drain that excessive CEO and other executive pay has on earnings – and avoid the resulting hit to their stock price – many corporate boards have relied on accounting tricks like not treating stock options as an expense.

Strategic Finance magazine has concluded that "expensing of stock options is more likely in firms that practice good governance."[150] Perhaps unsurprisingly, the questionable accounting practice of not expensing stock options was popular with companies opposed to the shareholder access rule:

- 76 percent of the corporations opposed to the shareholder access rule do not expense their stock options.[151]

Stock options are shares held internally by the company that are promised to directors or executives at a certain price. When the recipient "exercises the option," he pays the corporation the promised share price for the stock – regardless of its current value – and is then free to sell the share on the open market and pocket the difference. However, stock options are not required to be "expensed," or recorded as a cost to the company, until they are exercised. By delaying the recorded cost to the company until the holder cashes out, a company can hide a large portion of their executive pay costs and appear more profitable than they really are. The investment firm Bear Stearns estimated in 2003 that if all options were expensed, S&P 500 corporations would have to cut their official profits by an average of 20 percent.[152]

Executive compensation with large amounts of stock options can be extremely hazardous to investors. Such pay packages give executives an incentive to use other accounting tricks to make the corporation appear more profitable, driving up the stock price in the short term. Dishonest executives can then exercise their options and sell their shares before the actual financial situation is realized and the stock crashes. Enron again offers a case study, according to Senate investigators:

> *[Board] members said it had not occurred to them that, by giving Enron executives huge stock option awards, they might be creating incentives for Enron executives to improperly manipulate company earnings to increase the company stock price and cash in their options. … Another said, when asked why Enron executives misled the Board and cheated the company, that he "only can assume they did it for the money."*[153]

Another method used by companies to hide the impact of executive compensation on earnings is to make loans to executives in lieu of outright salary payments. These loans, which were often made at no interest or later forgiven, became so abused by corporate boards that Congress outlawed the practice in 2002. Before the law took effect, however, corporate boards engaged in a last-minute loan-granting surge.[154] Many of the corporations opposed to the shareholder access rule used this questionable practice before it was outlawed and still have many of these loans on their books:

- 17 percent of corporations opposed to the shareholder access rule still have outstanding executive loans, according to data from the Corporate Library.[155]

Several Corporations Opposed to the Shareholder Access Rule Are Facing Shareholder Revolts

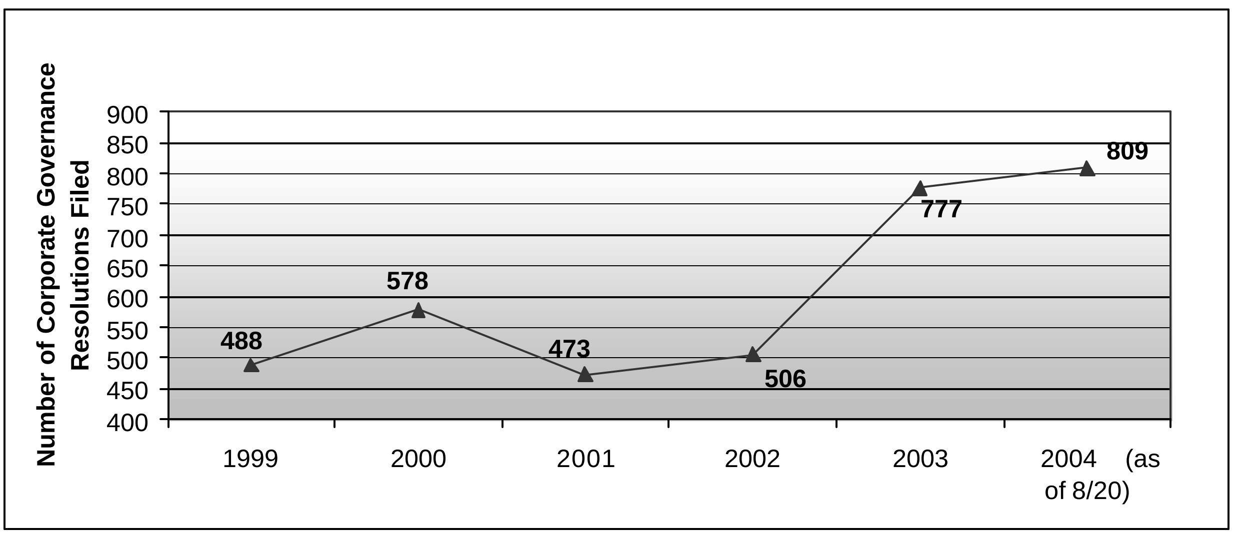
As shareholder activism has increased across corporate America, several of the companies opposed to the shareholder access rule have been engaged in conflicts with their own shareholders. One reason many corporate boards and CEOs have opposed the rule could be that they fear the prospect of angry shareholders actually having an effective tool to hold them accountable.

Shareholders have become more active in challenging boards on corporate governance issues.

One of the only ways for long-term shareholders to influence boards is through resolutions passed at annual meetings. Without a practical way to replace corporate directors or CEOs, shareholders have resorted to filing resolutions in growing numbers. In particular, the number of resolutions on corporate governance has risen sharply:

- From 1999 to 2004, shareholder resolutions on corporate governance filed were up 66 percent,[156] which includes more than 300 resolutions challenging executive pay filed in 2002 and 2003.[157] [See Figure 5]

Figure 5
Shareholder Resolutions on Corporate Governance Issues Filed with Widely Held Corporations, 1999-2004



Source: Investor Responsibility Research Center, Washington, DC.[158] "Widely held corporations" are defined as those in the S&P 1500 and other stocks widely held by institutional investors tracked by the IRRC.

Several corporations opposed to the shareholder access rule have a poor record of responsiveness to shareholder concerns.

Because shareholder resolutions are usually nonbinding, many corporations choose to ignore them. The Corporate Library bases its "Shareholder Responsiveness" rating on how boards respond to those resolutions.[c] An analysis of those ratings shows that several companies opposed to the rule have received a "D" or an "F" grade, which indicates serious problems with shareholder responsiveness. Many have received a "C" grade, which indicates at least a limited history of ignoring shareholder concerns:

- Seven percent (13) of the corporations opposed to the rule have received a grade of "D" or "F" from the Corporate Library in the category Shareholder Responsiveness. Seventeen percent (34) have received a "C" grade or lower.[159]

The following corporations opposed to the shareholder access rule have blatantly ignored resolutions approved by shareholders:[160]

- Intel Corp. ignored a May 2004 resolution approved by 54 percent of shareholders demanding the expensing of stock options.

- Gillette has ignored three consecutive shareholder resolutions (passed with 68 percent in 2004, 64 percent in 2003, and 56 percent in 2002) demanding annual rather than staggered ("classified") director elections.

- Raytheon has ignored resolutions demanding annual director elections passed in four of the past five years (the 2004 resolution garnered 77 percent of the vote), as well as a stock option expensing resolution (passed with 65 percent).

- Sears has ignored resolutions demanding annual director elections passed in four of the past five years (the 2004 resolution got 68 percent of the vote).

- Texas Instruments, Hewlett-Packard, IBM, and Wells Fargo have each ignored stock-option-expensing resolutions passed by their shareholders.

[c] **Shareholder Responsiveness:** This rating component reflects a board's history in responding to shareholder proposals that receive majority support. A board's failure to accept a majority vote on shareholder proposals is strongly indicative of the degree to which the board acts in the best interest of management as opposed to shareholders. This rating component relies on public data collected by The Corporate Library, primarily via SEC EDGAR. The baseline rating for companies that are generally responsive to shareholder concerns is a B. A company that repeatedly fails to implement majority vote shareholder resolutions will receive an F; a C or D rating suggests the need for closer scrutiny due to a more limited history of problems in this area.

The persistent problems in many U.S. corporations necessitate shareholder access to the ballot.

This is particularly illustrated by the numerous problems at the corporations of many of the CEOs and directors who are most opposed to the shareholder access rule. This lack of willingness to acknowledge the seriousness of the continuing corporate scandals ignores the fact that they are costing investors dearly and shows that shareholders must be given an avenue of recourse in the face of failing leadership. A better alternative to selling one's stock and abandoning a troubled company must be established.

Appendices

Appendix A

Rangers, Pioneers, and Super Rangers from Corporations Opposed to the Shareholder Access Rule

Corporation	Filed Individual Comments on Rule	Business Roundtable Member	U.S. Chamber of Commerce Board Member	Fundraiser	Position	Status	Minimum Raised
Affiliated Computer Services			☑	Stephen Goldsmith	Senior Vice President	Pioneer 2000 Ranger 2004	$300,000
American International Group	☑	☑		Maurice Greenberg	Chairman & CEO	Pioneer 2000 Ranger 2004	$300,000
American International Group	☑	☑		Edward 'Ned' Cloonan	Vice President	Pioneer 2000	$100,000
Boeing	☑	☑		Travis Thompson	Retired Senior Program Manager	Ranger 2004	$200,000
Bristol-Myers Squibb		☑		Bruce Gelb	Retired Vice Chairman	Pioneer 2004	$100,000
Burlington Northern Santa Fe		☑		Matthew Rose	CEO, Chairman & President	Ranger 2004	$200,000
Cinergy		☑	☑	James Rogers	CEO, Chairman & President	Pioneer 2004	$100,000
Cintas	☑			Richard Farmer	Chairman & Founder	Pioneer 2000* Ranger 2004 Super-Ranger	$600,000
Coca-Cola		☑		Barclay T. Resler	Vice President	Ranger 2004	$200,000
Comcast Corp		☑		Stephen B. Burke	Executive Vice President	Ranger 2004	$200,000
ConocoPhillips	☑	☑		Archie W. Dunham	Chairman	Pioneer 2000*	$100,000
CSX Transportation		☑		Alvin "Pete" Carpenter	Retired Vice Chairman	Pioneer 2000	$100,000
Eastman Chemical Company	☑	☑		Garland Williamson	Ex-Vice President	Pioneer 2000*	$100,000
EDS		☑		Jeffrey M. Heller	President & CEO	Pioneer 2000*	$100,000
EDS		☑		Gov. John Engler	Ex-President, Local Government Division	Pioneer 2000	$100,000
EMC Corporation	☑	☑		Richard J. Egan	Director, Chairman Emeritus, Ex- CEO	Pioneer 2000 Ranger 2004	$300,000
Fedex Corporation	☑	☑		Frederick Smith	CEO, Chairman & President	Pioneer 2004	$100,000
FirstEnergy Corp.	☑			Anthony J. Alexander	President, CEO, Director	Pioneer 2000 Pioneer 2004	$200,000
FMC		☑		Robert N. Burt	Retired Chairman & CEO	Pioneer 2000	$100,000
Ford Motor Co.		☑		Ziad Ojakli	Vice President, Corporate Affairs	Pioneer 2004	$100,000
Goldman Sachs		☑		Peter R. Coneway	Limited Partner	Pioneer 2000 Ranger 2004 Super-Ranger	$600,000

Corporation	Filed Individual Comments on Rule	Business Roundtable Member	U.S. Chamber of Commerce Board Member	Fundraiser	Position	Status	Minimum Raised
Goldman Sachs		☑		George Walker IV	Managing Director	Pioneer 2004	$100,000
Goldman Sachs		☑		Henry Paulson Jr.	Chairman & CEO	Pioneer 2004	$100,000
Home Depot	☑	☑		Bob Nardelli	Chairman & CEO	Super Ranger	$300,000
Home Depot	☑	☑		Kent Knutson	Lobbyist	Super Ranger	$300,000
J.P. Morgan Chase	☑	☑		Alan R. Buckwalter III	Retired Chairman, Southwest Region	Pioneer 2000*	$100,000
J.P. Morgan Chase	☑	☑		John O'Connor	Executive Partner	Pioneer 2004	$100,000
J.P. Morgan Chase	☑	☑		Geoffrey T. Boisi	Ex-Vice Chairman	Ranger 2004	$200,000
Lehman Brothers		☑		Stephen Lessing	Managing Director	Ranger 2004	$200,000
Marsh & McLennan (owns Marsh USA)		☑	☑	John D. Carswell	Executive at Marsh USA	Pioneer 2004	$100,000
MassMutual Financial Group			☑	Robert J. O'Connell	CEO, Chairman & President	Pioneer 2000 Pioneer 2004	$200,000
Merrill Lynch		☑		Stanley O'Neal	CEO, Chairman & President	Ranger 2004	$200,000
Microsoft Corporation	☑			John Connors	Chief Financial Officer	Pioneer 2004	$100,000
Microsoft Corporation	☑			John Kelly	Attorney	Pioneer 2004	$100,000
Morgan Stanley		☑		Philip Purcell	CEO & Chairman	Ranger 2004	$200,000
Morgan Stanley		☑		Palmer N. Murray	Investor Manager	Pioneer 2000	$100,000
Morgan Stanley		☑		William H. Strong	Vice Chairman & Managing Director	Ranger 2004	$200,000
Morgan Stanley		☑		Richard Powers III	Client Group President	Ranger 2004	$200,000
Peabody Energy		☑		Irl Engelhardt	CEO & Chairman	Pioneer 2004	$100,000
PepsiCo			☑	Roger A. Enrico	Ex-Chairman & Ex-CEO	Pioneer 2000*	$100,000
Pfizer, Inc.	☑	☑	☑	Henry McKinnell	CEO, Chairman & President	Ranger 2004	$200,000
SBC Communications			☑	Edward E. Whitacre Jr.	Chairman & CEO	Ranger 2004	$200,000
Servicemaster		☑	☑	Jonathan Ward	President & CEO	Pioneer 2004	$100,000
Southern Company		☑	☑	Dwight H. Evans	Executive Vice President	Ranger 2004	$200,000
Texas Instruments		☑		J. Fred Bucy Jr.	Retired CEO & President	Pioneer 2000*	$100,000
TXU			☑	Erle A. Nye	Chairman	Pioneer 2000 Pioneer 2004	$200,000

Corporation	Filed Individual Comments on Rule	Business Roundtable Member	U.S. Chamber of Commerce Board Member	Fundraiser	Position	Status	Minimum Raised
Union Pacific		☑		Richard Davidson	CEO, Chairman & President	Ranger 2004	$200,000
Union Pacific		☑		Drew Lewis	Ex-Chairman	Pioneer 2000*	$100,000
United Technologies	☑	☑		George David	CEO & Chairman	Ranger 2004	$200,000
Verizon Communications		☑	☑	Ivan Seidenberg	CEO & Chairman	Pioneer 2004	$100,000
Waste Management		☑		John E. Drury	Ex-Chairman & CEO	Pioneer 2000*	$100,000
Waste Management		☑		A. Maurice Myers	Chairman & ex-CEO	Ranger 2004	$200,000
Wyeth Corporation		☑		John Stafford	Ex-Chairman	Pioneer 2000	$100,000
TOTALS 40 Corporations				**53 Bundlers**		**22 '00 Pioneers 21 '04 Rangers 16 '04 Pioneers 4 Super-Rangers**	**$8.3 Million**

Source: Public Citizen research and analysis of Bush campaign disclosures, www.WhiteHouseForSale.org.
* Pledged to become a Pioneer in 2000 but campaign would not confirm if bundler reached the goal or how much was collected.

Appendix B

Campaign Contributions to Bush and the RNC from Corporations Opposed to the Shareholder Access Rule and Their Employees

Corporation	Filed Individual Comments on Rule	Business Roundtable Member	U.S. Chamber of Commerce Board Member	Election Cycle					
				2000		2002		2004	
				Bush	RNC	Inaugural	RNC	Bush	RNC
3M Company	☑	☑	☑	$3,500	$52,845	--	$34,440	$24,100	$2,384
A. O. Smith		☑		--	--	--	--	--	--
Abbott Laboratories	☑	☑		$13,050	$3,850	$100,000	$9,700	$22,575	$27,030
Accenture, Ltd.	☑	☑	☑	$44,750	$106,425	--	$72,100	$103,750	$14,650
Aetna	☑			$10,525	$262,365	--	$266,229	$14,450	$26,000
Affiliated Computer Services			☑	$34,475	$6,330	--	$313,073	$4,201	$50,540
Agilent Techlogies	☑			$702	$750	--	$650	$2,805	$1,150
Air Products And Chemicals		☑		$6,250	$17,250	--	$6,010	$6,150	$14,745
Alcoa		☑		$4,000	$1,500	$100,000	$1,250	$1,500	--
Allstate Corp.	☑	☑		$5,980	$20,755	--	$35,740	$32,475	$4,730
Alltel Corp.	☑	☑		$17,750	$1,750	--	--	$21,050	$400
Alpha Techlogies, Inc.			☑	--	--	--	$250	--	--
America West Airlines			☑	$1,000	$67,275	--	$5,700	$4,500	$450
American Electric Power		☑		$4,500	$6,450	--	$7,000	$20,200	--
American Express		☑		$19,500	$80,225	--	$30,180	$34,150	$12,920
American International Group	☑	☑		$40,400	$164,826	$100,000	$574,209	$153,710	$12,902
AMGEN, Inc.	☑	☑		$21,965	$142,300	--	$248,036	$16,825	$4,295
Anadarko Petroleum Corp.	☑			$24,385	$285,000	$25,000	$34,662	$7,250	$5,250
Apache Corp.	☑			$2,900	$1,000	--	$2,000	$8,250	$2,200
Arch Coal	☑	☑		$9,094	$57,450	--	$30,350	$4,000	$250
Archer Daniels Midland		☑		$7,000	$125,000	$100,000	$300,000	$4,275	--
Armstrong Holdings, Inc.	☑			--	--	--	--	--	$15,000
Arvinmeritor		☑		$3,000	$17,700	--	--	--	--
Ashland, Inc.	☑	☑		$17,800	$57,750	--	$42,700	$10,500	$30,950
AT&T	☑	☑	☑	$47,400	$868,515	$100,000	$691,014	$35,665	$68,450
ATA Holdings Corp.	☑			--	$1,500	--	$700	$6,100	$1,300
Autozone	☑	☑		$5,000	$400	--	$20,500	--	$1,000
Axcelis Techlogies	☑			--	--	--	--	--	--
Baxter International		☑		$10,000	$93,600	--	$94,547	$500	--
Boeing	☑	☑		$20,050	$264,469	$100,000	$195,542	$67,663	$51,205
Brink's Company, The		☑		--	--	--	--	--	--
Bristol-Myers Squibb		☑		$51,450	$397,222	$100,000	$264,950	$24,350	$25,000
Burlington Northern Santa Fe		☑		$6,750	$297,625	--	$398,066	$105,901	$1,250
Cadence Design Systems	☑	☑		$4,000	--	--	$400	$2,000	--
Callaway Golf Company	☑			$500	--	--	--	$2,000	--
Cambrex Corp.	☑			$2,000	--	--	--	$1,250	$2,000
Caremark RX, Inc.			☑	--	$10,000	--	--	$5,250	--
Caterpillar Inc.	☑	☑	☑	$17,250	$122,485	--	$21,750	$37,650	$3,750
Cendant Corp.	☑	☑		$40,900	$28,090	--	$35,300	$176,843	$19,938
Cenveo (formerly Mail-		☑		--	--	--	--	--	--

Corporation	Filed Individual Comments on Rule	Business Roundtable Member	U.S. Chamber of Commerce Board Member	Election Cycle					
				2000		2002		2004	
				Bush	RNC	Inaugural	RNC	Bush	RNC
Well)									
Ceridian		☑		--	--	--	--	--	$200
Charles Schwab Corp.	☑			$32,790	$426,001	$137,800	-$5,300	$31,400	$4,750
Chemung Financial Corp.	☑			--	--	--	--	--	--
Chevrontexaco		☑		$15,000	$275,150	--	$333,800	$21,400	$56,700
Chubb Corp., The		☑		$3,900	$33,600	$100,000	$41,650	$3,200	$2,750
CIGNA Corp.	☑	☑		$7,750	$231,800	--	$356,016	$18,400	$42,170
Cinergy		☑	☑	$9,750	$189,690	$100,000	$106,872	$22,860	$25,250
Cintas	☑			$285,250	$285,250	$100,000	$407,800	--	--
Citigroup		☑		$114,300	$480,532	$100,000	$514,652	$308,700	$168,397
Cleco Corp.	☑			--	--	--	--	--	--
Coca-Cola		☑		$19,077	$393,050	$100,000	$154,400	$84,500	$31,050
Comcast		☑		$40,750	$330	--	$57,500	$78,910	$1,250
Compass Bancshares	☑			$1,000	--	--	--	$1,000	--
Computer Associates		☑		$19,500	$46,000	--	$750	$14,250	$3,630
ConocoPhillips	☑	☑		$31,450	$292,300	$105,000	$85,170	$25,550	$17,698
Convergys Corp.	☑	☑		$2,000	--	$100,000	$5,250	$8,000	$1,000
Corning		☑		--	$81,750	--	$15,250	$2,000	$31,000
Cousins Properties			☑	$1,000	$20,000	--	--	$4,000	$5,000
CSX		☑		$25,750	$168,750	--	$80,400	$10,500	$31,200
Cummins, Inc.	☑	☑		$2,000	$250	--	$250	$500	--
Dana		☑		$2,000	$15,750	--	$16,500	$200	--
Deere		☑		$13,500	$81,500	--	$28,700	$4,550	$1,250
Delphi Corp.	☑	☑		$9,950	--	--	--	$34,500	$750
Delta Air Lines, Inc.			☑	$27,151	$40,190	--	$28,568	$43,860	$10,745
Dow Chemical Company		☑	☑	$26,450	$200,200	$100,000	$2,000	$32,030	$8,470
DPL Inc.	☑			--	$5,250	--	$15,000	$2,000	--
Duke Energy		☑		$5,000	$35,500	--	$30,500	$16,110	$700
Dupont		☑		$8,050	$20,550	--	$37,666	$5,975	$5,480
Eastman Chemical	☑	☑		$20,700	$5,000	--	--	$17,550	--
Eastman Kodak		☑	☑	$2,000	$22,465	--	$16,400	$3,700	$575
Eaton Corp.	☑	☑		$2,000	$250	--	$2,300	$9,400	$4,150
EDS		☑		$32,050	$115,235	--	$119,557	$31,615	$60,816
Eli Lilly and Company	☑	☑		$27,450	$368,380	--	$194,141	$63,875	$20,400
EMC Corp.	☑	☑		$27,000	$276,150	$100,000	$267,042	$145,861	$29,250
Emerson Electric Co.	☑		☑	$24,550	$241,400	--	$175,600	$52,150	$25,000
Engelhard		☑		--	--	--	--	$1,250	--
Entergy			☑	$15,000	$47,450	--	$53,560	$8,900	$28,400
Exelon Corp.	☑			$16,750	$132,605	--	$226,651	$12,500	$54,655
Exxonmobil		☑		$50,025	$84,340	$100,000	$107,390	$65,167	$17,610
Fannie Mae	☑	☑	☑	$8,500	$59,150	$100,000	$179,471	$33,175	$7,250
FedEx Corp.	☑	☑		$15,350	$265,050	--	$30,950	$89,475	$36,003
FirstEnergy Corp.	☑			$76,685	$349,630	$100,000	$280,812	$51,000	$250
Fisher Scientific Int'l		☑		--	$15,000	--	--	--	--
Fluor Corp.	☑	☑	☑	$3,500	$19,950	--	$48,900	$4,200	$2,680
FMC		☑		$15,200	$31,290	$7,500	$3,650	$5,050	$1,300
Ford Motor Company		☑		$48,250	$56,175	$100,000	$123,627	$64,740	$15,374
FPL Group		☑		$7,250	$167,900	--	$88,935	$15,700	$250
General Electric Co.	☑	☑		$58,301	$260,686	$100,000	$225,916	$113,175	$97,918
General Mills	☑	☑		$2,000	$5,000	--	$750	$5,000	$250
General Motors Corp.	☑	☑		$56,944	$110,941	$200,000	$60,379	$151,615	$43,915

Corporation	Filed Individual Comments on Rule	Business Roundtable Member	U.S. Chamber of Commerce Board Member	Election Cycle					
				2000		2002		2004	
				Bush	RNC	Inaugural	RNC	Bush	RNC
Georgia-Pacific	☑	☑		$2,250	$10,450	--	$32,100	$23,636	$1,450
Goldman Sachs		☑		$114,999	$626,000	$100,000	$310,345	$368,100	$469,404
Goodrich		☑		--	--	--	$13,500	$10,200	$50,250
Goodyear		☑		$8,000	$45,750	--	$10,200	$4,250	$250
Graphic Packaging Corp.	☑			$500	--	--	$250	$2,000	--
Hartford, The		☑		$2,200	$16,850	--	$76,050	$5,850	$1,100
Hawk Corp.			☑	$1,000	--	--	--	--	$21,000
HCA		☑		$16,150	$35,250	--	$6,000	$38,550	$62,750
Hewlett-Packard		☑		$13,500	$12,575	$55,000	$30,715	$34,560	$6,125
Home Depot, The	☑	☑		$3,500	$370,200	$50,000	$537,750	$43,450	$346,645
Honeywell	☑	☑		$12,000	$23,850	$100,000	$4,100	$16,320	$2,250
Human Geme Sciences			☑	--	--	--	$500	--	--
Humana		☑		--	$500	--	$250	$9,350	$2,700
IBM		☑		$22,833	$12,175	$100,000	$17,150	$77,970	$46,758
IndyMac Bancorp, Inc.	☑			--	--	--	--	$750	--
Ingersoll-Rand		☑		$4,250	$3,201	--	$2,500	--	--
Intel Corp.	☑			--	--	--	$500	$22,405	$3,250
International Paper	☑	☑		$13,250	$223,800	$100,000	$179,952	$64,530	$33,200
International Steel Group		☑		$4,500	$74,450	--	$60,500	--	--
ITT Industries		☑		$1,500	$1,200	--	$3,100	$6,200	$3,200
Johnson & Johnson		☑		$16,150	$31,900	--	$58,850	$35,160	$23,402
Johnson Controls		☑		$900	$49,441	--	$80,500	$5,250	$10,250
JPMorgan Chase & Co.	☑	☑		$101,705	$80,765	$100,000	$31,034	$199,150	$171,680
Kellogg Company	☑			--	--	--	--	--	--
Kerr-McGee Corp.	☑	☑		$1,500	$61,500	--	$48,111	--	--
KeyCorp	☑			$10,750	$17,745	--	$5,000	$12,000	$250
Landstar System, Inc			☑	$1,000	--	--	--	$650	--
Lehman Brothers		☑		$35,150	$747,050	$25,000	$312,950	$309,575	$104,502
Liberty Corp., The	☑			$3,000	$9,500	--	--	$4,000	$1,000
Lockheed Martin		☑		$28,650	$196,180	$225,000	$202,051	$114,705	$61,957
Magna International Inc.			☑	$1,000	--	--	--	--	--
Marsh & Mclennan (Owns Marsh USA)		☑	☑	$26,155	$96,850	--	$3,550	$48,850	$60,725
Massey Energy			☑	--	$15,000	--	--	--	--
MasTec, Inc.			☑	$2,250	--	--	--	$9,050	--
McDATA Corp.	☑			--	--	--	--	--	$250
McDonald's Corp., Inc.	☑			$33,950	$9,800	$1,000	$9,102	$40,200	$3,920
Mcgraw-Hill		☑		$9,250	$2,500	--	$1,000	$2,550	$500
MDU Resources	☑			$2,250	--	--	--	$1,000	--
Meadwestvaco		☑		--	--	--	$225	$6,700	$698
Medco Health Solutions		☑		--	--	--	--	$6,250	$2,250
Merck		☑		$10,050	$126,350	$120,000	$87,860	$7,975	$2,975
Merrill Lynch		☑		$132,425	$301,647	$100,000	$118,141	$564,304	$160,135
Mestek, Inc.	☑			$4,000	--	--	--	--	--
Metropolitan Life		☑		$38,650	$83,100	--	$89,875	$24,750	$23,675
Microsoft Corp.	☑			$62,250	$724,277	$100,000	$989,052	$191,890	$64,695
Minerals Techlogies Inc.	☑			--	--	--	--	--	--
Mirant Corp.			☑	--	--	--	$53,500	$6,500	$15,000
Morgan Stanley		☑		$144,900	$265,780	$100,000	$151,195	$590,030	$214,300
Motorola		☑		$14,850	$93,889	--	$112,950	$26,805	$36,050
Nationwide Corp.	☑	☑		$2,000	$67,750	--	$97,000	$21,600	$950
Nike, Inc.			☑	$2,000	--	--	$97,000	$4,250	$300

Corporation	Filed Individual Comments on Rule	Business Roundtable Member	U.S. Chamber of Commerce Board Member	Election Cycle					
				2000		2002		2004	
				Bush	RNC	Inaugural	RNC	Bush	RNC
Norfolk Southern Corp.	☑	☑	☑	$1,000	$18,665	--	$11,655	$7,700	$1,500
Norrthern Trust Corp.	☑			$4,500	$2,750	--	$1,700	$37,250	$2,165
NSTAR	☑			$2,000	$8,250	--	$7,500	$2,000	--
Office Depot, Inc.	☑		☑	$1,000	$200	--	--	$11,150	$3,736
Owens Corning		☑		$3,250	$27,400	--	$1,200	$500	--
PACCAR, Inc.	☑			$7,000	$50,000	--	--	$5,000	--
Pactiv Corp.		☑		--	--	--	--	$4,500	--
Peabody Energy		☑		--	--	$100,000	$275,200	$72,359	$217,500
Pepco Holdings, Inc.			☑	$2,000	$37,650	--	$48,200	$6,000	$1,500
PepsiCo			☑	$37,250	$175,250	$200,000	$214,750	$23,700	$30,125
Pfizer, Inc.	☑	☑	☑	$35,400	$494,225	$100,000	$406,961	$115,509	$41,510
Pitney Bowes, Inc.	☑			$2,250	$18,700	--	$75,900	$6,100	$31,250
PNM Resources, Inc.			☑	--	--	--	--	$4,000	--
PPG Industries, Inc.	☑	☑		$2,750	$500	--	--	$5,921	--
Praxair, Inc.	☑	☑		$1,000	$37,250	--	$45,000	$750	$30,000
Pre-Paid Legal Services			☑	--	--	--	--	--	--
Principal Financial		☑		$1,000	$750	--	--	$3,200	$1,920
Procter and Gamble	☑	☑		$10,500	$46,135	$50,000	$3,400	$43,070	$4,000
Progress Energy	☑	☑	☑	$250	$32,400	--	$250	$9,500	$5,200
Prudential Financial, Inc.	☑	☑		$65,200	$215,675	--	$117,286	$116,390	$38,925
Quaker Fabric Corp.			☑	$1,000	--	--	--	--	--
Questar Corp.	☑			$1,000	--	--	$3,150	$3,950	--
Raytheon		☑		$13,400	$93,617	$100,000	$93,790	$28,100	$38,188
Republic Services, Inc.	☑			--	$750	--	--	$8,000	$250
Rockwell		☑		$4,250	$17,750	--	$250	--	--
RPM International	☑			$5,000	--	--	--	$3,000	$5,000
Rural/Metro Corp.	☑			--	--	--	--	$200	$200
Ryder System		☑	☑	$200	$44,525	$5,000	$18,900	--	$5,000
Sandy Spring Bancorp	☑			--	--	--	--	--	--
Sara Lee		☑		$5,000	$500	--	$300	$2,250	$200
SBC Communications			☑	$32,100	$463,365	$100,000	$243,205	$170,380	$57,728
Schering-Plough		☑		$12,850	$235,850	--	$140,600	$8,250	$750
Sears, Roebuck and Co.	☑	☑		$5,450	$32,400	--	$51,387	$24,550	$25,700
Servicemaster		☑	☑	$23,000	$15,670	--	$41,517	$24,500	$220
Siebel Systems		☑		--	$400	--	$20,450	$8,000	$250
Southern Company		☑	☑	$24,425	$242,365	$100,000	$221,675	$185,497	$84,250
Sprint Corp.	☑	☑		$9,750	$74,895	--	$50,300	$19,875	$11,700
St. Paul Travelers		☑		$1,000	$200	--	--	$38,550	$6,000
Sun Microsystems		☑		--	--	--	$1,950	$16,250	$1,450
Sunrise Senior Living			☑	--	--	--	--	$250	--
Sybase, Inc.			☑	$700	--	--	$1,500	$6,000	$850
Target Corp.	☑			$10,250	$77,250	--	$42,850	$31,950	$3,000
Tenneco Automotive		☑		$5,000	$1,400	--	--	$425	--
Texas Instruments		☑		$22,450	$2,650	--	$5,250	$24,600	$4,750
Textron		☑	☑	$9,500	$8,600	$100,000	$12,350	$12,750	$11,200
Trex Company, Inc.	☑			--	--	--	--	$2,000	--
Tribune Company	☑			$5,350	$7,000	--	$650	$5,998	$1,250
TXU Corp.			☑	$40,549	$291,500	--	$293,136	$34,463	$51,150
Tyco International		☑		$5,000	$76,055	--	$84,550	$12,601	$15,750
Tyson Foods		☑		--	$5,501	$100,000	$6,250	$8,000	$1,200
Union Pacific		☑		$26,300	$406,250	$100,000	$379,886	$150,250	$85,900
United Parcel Service	☑	☑	☑	$7,900	$322,150	--	$377,609	$42,530	$40,195

Corporation	Filed Individual Comments on Rule	Business Roundtable Member	U.S. Chamber of Commerce Board Member	Election Cycle					
				2000		2002		2004	
				Bush	RNC	Inaugural	RNC	Bush	RNC
United Techlogies	☑	☑		$19,475	$40,395	$25,000	$59,745	$173,151	$44,064
USF Corp.			☑	--	$20,000	--	--	--	$500
Valero Energy Corp.	☑			$5,750	$700	--	$3,500	$7,100	$20,100
Verizon Communications		☑	☑	$41,680	$535,526	--	$415,246	$96,300	$72,150
W.W. Grainger Inc.	☑	☑		$3,000	$8,000	--	$117,736	$6,900	$1,000
Waste Management		☑		$39,250	$238,656	$100,000	$104,372	$100,125	$39,756
Weis Market, Inc.	☑			$1,000	--	--	$750	$2,000	--
Wells Fargo & Company	☑		☑	$33,950	$121,100	--	$156,000	$74,295	$60,730
Whirlpool		☑		$3,000	$1,500	--	$265,187	$7,475	--
Williams Companies		☑		$2,800	$20,300	--	$156,000	$2,000	$500
Wyeth Corp.		☑		--	--	--	$264,187	$7,300	$1,900
Xerox		☑	☑	$2,250	$22,700	--	$41,850	$2,000	$1,450
Total* (205 Corporations)	**95**	**134**	**48**	**Bush: $3,213,595 RNC: $18,530,037**		**Inaugural: $4,931,300 RNC: $16,934,111**		**Bush: $7,467,110 RNC: $4,407,183**	

Source: Public Citizen analysis of data provided by the Center for Responsive Politics. Totals include contributions from political action committees and individual members or employees of an organization, as well as unrestricted "soft money" donations from individuals and corporate treasuries before the 2004 election cycle (when such donations became illegal). Contribution data are as of Oct. 1, 2004.

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