IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. MICROSOFT CORPORATION, Defendant.	Civil Action No. 98-1232 (CKK)
STATE OF NEW YORK, *et al.*, Plaintiffs, v. MICROSOFT CORPORATION, Defendant.	Civil Action No. 98-1233 (CKK)

DECLARATION OF EDWARD ROEDER

Edward Roeder declares under penalty of perjury as follows:

I. INTRODUCTION

1. I am a Washington journalist, author, lecturer, and editor, expert on the U.S. Congress, elections and efforts to influence the U.S. government. My byline has appeared in most major U.S. newspapers, many top magazines, and on all major wires and networks. I have written, edited, produced and reported on money in politics, Congressional ethics and the American political economy for more than three decades. My experience includes work as a Senate subcommittee counsel, House select committee chief investigator, United Press International editor, publisher, White House speechwriter, government aide at level GS-15, freelance reporter and publisher.

I founded Sunshine Press Services, Inc., a Washington news service and publishing house specializing in "Casting Light on Money and Politics." Sunshine has developed *References to Use, Not Just Peruse*™, computer-based reference works on U.S. politics. As National Political/Finance

Editor for United Press International, I produced the nation's first weekly state-by-state computer-generated reports on federal election financing.

In 1974, I became the first freelance correspondent fully accredited to U.S. House & Senate Press Galleries. As a freelance print and broadcast reporter, I specialized in covering elections and election financing. In *Roeder v. FEC*, I successfully sued Federal Election Commission under the federal Freedom of Information Act, forcing a reduction in fees for records and release of computerized data.

My experience includes lecturing about covering influences on government at the graduate schools of journalism at Columbia, Northwestern (Medill), American, Maryland and other universities, and at the Hastings Center, the Heritage Foundation, and many other forums, and testifying before U.S. House and Senate committees. I also taught a public affairs course, *Shadow Government in the Sunshine State*, for three terms at Florida State University. I have appeared on ABC's Nightline, the CBS Evening News, World News Tonight (ABC), NBC Nightly News, All Things Considered (NPR), John McLaughlin, and many other broadcast outlets.

My reference publications include *PACs Americana*, the 1,150-page authoritative reference on political action committees and their interests, **Congress On Disk**™, the pioneer diskette publication on politics, **PAC-Track**™, covering all transactions by political action committees and party committees, **FatCat-Track**™, covering "soft money" and all contributions of $200-and-up from individuals to any federal party, campaign or PAC, and **Ready Money Reports**™, comparing relative financial standings of each federal campaign. A partial list of news clients is attached as Appendix B.

2. I was commissioned by the Computer & Communications Industry Association to conduct a review of publicly available documents, news reports, and commentary regarding Microsoft's lobbying and political contributions since the United States Department of Justice and 19 States filed suit against Microsoft in 1998.[1]

3. My review of the available documents has led me to conclude that over the past five years Microsoft has engaged in a "pattern and practice" of political influence peddling in many ways unprecedented in modern political history.[2] What makes Microsoft's lobbying efforts so unique is

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[1] I am aware that Microsoft has undertaken an effort to use the Court discovery process to build a political case against its competitors. The relevancy of Microsoft's strategy will have to be determined by the Court since Microsoft – and not its competitors – have been found to be liable under the antitrust laws. I took input and advice from a broad range of sources in conducting this research, including CCIA and its members. This research is nonetheless based on the extraordinary public record of Microsoft's political activities during the timeframe of this case. I have also undertaken extensive original review of the records of the Federal Election Commission regarding election finance. These records covering all election cycles since 1970-80 have been available in computerized format since the court-ordered settlement of *Roeder v. FEC*, a Freedom of Information lawsuit I filed in this very courthouse two decades ago.

[2] "Microsoft Targets Funding for Antitrust Office." Dan Morgan and Juliet Eilperin. Washington Post October 15, 1999. "Pro-Microsoft lobbying to limit antitrust funding irks top lawmakers." The

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not necessarily the size (i.e. level of political contributions) but the scope of its efforts and the speed at which Microsoft went from having almost no political presence in Washington D.C. to having one of the largest and most sophisticated political operations in history.

4. By "scope" I am referring to the breadth of Microsoft's efforts. Microsoft has not merely established one of the largest Political Action Committees, or leapt to the top of the corporate contributor list in "soft money," unregulated corporate contributions. Over the past five years Microsoft has also assembled a large lobbying office and retained dozens of high-powered consultants; Microsoft has created numerous "front" groups and has contributed heavily to a variety of think tanks and other organizations willing to espouse Microsoft's view of antitrust policy and this case; and Microsoft has created a variety of grassroots capabilities that appear to be directed at state-level government.

5. Two key factors indicate that Microsoft's lobbying efforts were designed and directed to try to minimize the impact of its lawsuit and try to achieve a result in the political process that it is

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Wall Street Journal October 15, 1999. "Microsoft Paid For Ads Against DoJ Case." Madeleine Acey. TechWeb September 20, 1999. "Microsoft Paid For Ads Backing Its Trial Position." David Bank. The Wall Street Journal September 20, 1999. "Microsoft Paid For Ads Backing It In Trial." Seattle Times September 19, 1999. "Pro-Microsoft Ads Were Funded by Software Giant." Greg Miller. Los Angeles Times September 18, 1999. "Microsoft Paid for Ads About Trial." Associated Press September 18, 1999. "Microsoft Covered Cost of Ads Backing It in Antitrust Suit." Joel Brinkley. New York Times September 18, 1999. "Rivals fear Microsoft will cut a deal." John Hendren. The Seattle Times June 21, 2001. "Bush's Warning: Don't Assume Favors Are Due." Gerald F. Seib The Wall Street Journal January 17, 2001. "Bounty Payments are offered for pro-Microsoft letters and calls. " The Wall Street Journal October 20, 2000. "Microsoft is Source of 'Soft Money' Funds Behind Ads in Michigan's Senate Race. " John R. Wilke. The Wall Street Journal October 16, 2000. "Microsoft leans creatively on levers of political power as breakup decision looms, 'stealth' lobbying efforts aim for survival." Jim Drinkard and Owen Ulmann. USA Today May 30, 2000. "Microsoft's All-Out Counterattack." Dan Carney, Amy Borrus and Jay Greene. BusinessWeek May 15, 2000. "Aggressiveness: It's Part of Their DNA." Jay Greene, Peter Burrows and Jim Kerstetter. BusinessWeek May 15, 2000. "The Unseemly Campaign of Microsoft." Mike France. Business Week April 24, 2000. "Microsoft's Lobbying Abuses." Editorial. New York Times November 1, 1999 "Awaiting Verdict, Microsoft Starts Lobbying Campaign." Joel Brinkley. New York Times November 1, 1999. "Microsoft Seeks Help Of Holders." John R. Wilke. The Wall Street Journal November 1, 1999. "Microsoft's Bad Lobbying." Editorial. Washington Post October 24, 1999. "Microsoft Attempt To Cut Justice Funding Draws Fire." David Lawsky. Reuters October 17, 1999. "Microsoft Targets Funding for Antitrust Office." Dan Morgan and Juliet Eilperin. Washington Post October 15, 1999. "Pro-Microsoft lobbying to limit antitrust funding irks top lawmakers." The Wall Street Journal October 15, 1999. "Microsoft Paid For Ads Against DoJ Case." Madeleine Acey. TechWeb September 20, 1999. "Microsoft Paid For Ads Backing Its Trial Position." David Bank. The Wall Street Journal September 20, 1999. "Microsoft Paid For Ads Backing It In Trial." Seattle Times September 19, 1999. "Pro-Microsoft Ads Were Funded by Software Giant." Greg Miller. Los Angeles Times September 18, 1999. "Microsoft Paid for Ads About Trial." Associated Press September 18, 1999. "Microsoft Covered Cost of Ads Backing It in Antitrust Suit." Joel Brinkley. New York Times September 18, 1999.

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apparent it could not achieve in the legal process. First, Microsoft's efforts are *new*. Their onset coincides with the time the government sued Microsoft and they have continued and escalated ever since. Second, Microsoft's efforts are completely out of proportion to the rest of the high-technology industry. There is not one other example of a software, computer hardware, or Internet firm that comes anywhere near Microsoft's level of campaign contributions.

6. I am not a lawyer, an expert on antitrust or an expert on the Tunney Act. My substantive views of of the Proposed Final Judgment are based primarily on the analysis of Nobel economist Joseph Stiglitz, whose declaration also supports the CCIA submission.

7. The Tunney Act was enacted after the ITT scandal during the Watergate affair. As the court is aware, Watergate spurred a number of political reforms requiring "sunshine" on the political activities of special interests, in particular. But the Tunney Act was also enacted during a different political era, when political influence peddling was far less sophisticated than it has become after a quarter-century of efforts to circumvent the "reforms" of the 1970s. By necessity, political influence peddling is no longer necessarily marked by a single "transaction" or a single "meeting," or even an overt "*quid pro quo*." In fact, one of the effects of the modern reforms has been to legalize many activities – especially the transfer of funds from corporate to political coffers – that had long been illegal under laws in effect since 1907 or 1934. Lobbying today is marked by incrementalism, where there may not be any single meeting, or any single contribution, or any single agreement. Rather, over time, what may develop is an "understanding" of the respective parties' interests, objectives, and desired outcomes. Instead of corruptly influencing politicians to buy a discreet government decision, the money exerts far broader influence over appointments, policy frameworks or positions, and ultimately, decisions. Much of it may be legal, but it's far more corrupting than simple bribery.

The simple matter of paying off a corrupt politician to obtain a favorable government decision is certainly offensive and unfair to the voters and those who are disadvantaged by the decision. Yet such petty or grand corruption, if isolated, does not seriously threaten the American system. What Microsoft has accomplished over the past half decade, however, presents a far darker prospect. By pouring money into America's institutions of political pluralism, rewarding those organizations and individuals that do its bidding and denying or limiting funding to its opponents, Microsoft has in some ways corrupted American political discourse itself. Newspapers that have run an editorial or opinion article sympathetic to a Microsoft position, reporters who have interviewed a professor, politician, or pundit about this antitrust action, and anyone who has hosted or observed public discourse on the subject must now wonder: Were the views expressed independent and sincere, or were they purchased by an unseen hand, smothering the American marketplace of ideas?

As is detailed below, Microsoft's efforts to subvert democratic institutions such as political campaigns and debates, party organizations, news outlets, think tanks and government offices have been so vast as to be a new phenomenon, unenvisioned and unaddressed by existing political mechanisms intended to check the influence of special interests. Limited campaign contributions can serve the purpose of encouraging, facilitating, extending and opening political discussion. But political money in such vast amounts is a substitute for politics, not a means of undertaking political action.

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While the modern-day political pressure brought to bear by Microsoft in the last decade may not be precisely the same as that undertaken by ITT in the 70's, it is no less objectionable to the Court's charge of acting on behalf of the "public interest."

8. Based on my review of the public record and the declaration provided by Dr. Stiglitz, it is apparent that the Department of Justice undertook a major "change in policy" at a critical moment this past fall. My belief – again based largely on Dr. Stiglitz' analysis and substantiated by a wide array of antitrust experts and scholars – is that the Proposed Final Judgment cannot be reconciled with the government's extensive court victory. The public record suggests a Microsoft strategy that appears to defeats in the legal process, but which focuses on winning an acceptable outcome through the political process. It appears to be working. Indeed, if it weren't working, such vast expenditures might give rise to a shareholder suit for breach of fiduciary duty. If Microsoft's money has had the desired effect of inducing the U.S. government to throw in the towel on the biggest antitrust suit in history, such a suit could be easily defended. But to argue that Microsoft had no such intent is tantamount to suggesting that its corporate spending it in the control of squandering fools.

9. I have also reviewed Microsoft's lobbying disclosures filed before the court as part of the Tunney Act. Again, while I am not a lawyer, my review of public documents, press reports and the plain language of the statute leads me to believe that disclosures made to the court can not possibly be reconciled with Microsoft's lobbying activities surrounding both this case and this settlement.

10. Various press reports indicate that Microsoft is trying to convince the court and the public that the litigating states have been "put up to this" (i.e. continuing to litigate through the remedy phase) by Microsoft's competitors, and therefore cannot be acting in the public interest. My review of public documents suggests this theory is backwards and should be particularly alarming to the Court. The far more likely scenario, into which the Court must inquire, is whether the Department of Justice has executed Administration policy in response to the unprecedented campaign to influence the new Administration's antitrust policy generally, and as antitrust policy applies to the high-technology sector and Microsoft, in particular.

11. In fact, with the benefit of hindsight, various Justice Department actions make perfect sense in the context of my research. The Department went to great lengths to create the appearance they were going to be "tough" with Microsoft, beginning with enlisting President Bush's renowned litigator, Phillip Beck. What actually occurred, however, is they systematically appear to have given away their hard-fought court victory. First, the Department unilaterally abandoned its pursuit of structural relief, and informed the court it would not seek a review of the Sherman Act Section 1 tying claim on remand. Then the Department suggested it would base its remedy on the interim conduct remedies ordered by Judge Jackson. Then the Department began speaking of the extensive litigation risk involved in pursuing a remedy based on the need for immediate relief. Finally, the Department – outside of public scrutiny – emerges with the Proposed Final Judgment, which based on Dr. Stiglitz' analysis appears to be woefully inadequate.

12. I declare to the court that where "there is smoke there is typically fire." Even if the "fire" in the context of modern day political influence peddling is very subtle, it nonetheless does not serve the public interest. My view is that Microsoft's political campaign has been so extensive the court

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should take immediate notice. In modern political influence-peddling and purchasing, Microsoft has set a new bar. South Korea's spreading cash throughout Washington in the 1970s Tongsun Park scandal paled in comparison.

13. During the course of my research I was struck by the similarities between Microsoft and the current scandal involving Enron Corporation. While Enron, of course, is in an entirely different business, it seems the core issue – from a public disclosure perspective – is its campaign contributions and its ability to influence the nation's energy policy. Microsoft's campaign contributions significantly surpassed those of Enron; Microsoft was a defendant in a major governmental lawsuit; and it appears Microsoft may have successfully influenced the Administration's antitrust policy, with major implications for legal antitrust precedent.

14. My recommendation to the court is to undertake an immediate review of Microsoft's lobbying activities surrounding this settlement, with particular attention to meetings with the Justice Department or the White House by Microsoft or its agents. Included in this review should also be contacts made on Microsoft's behalf to the Justice Department or the White House by Members of Congress, their official staff, and campaign staff. The court should also interview Department of Justice staff who do not operate within the sphere of political appointees. And the court should interview the political appointees of the Attorney General and their staff. Moreover, the court should review any contacts or communications between the Republican National Committee, the National Republican Senatorial Committee, the Republican Congressional Campaign Committee, and the White House or the Justice Department. Lastly, the court should review any contacts or communications between Microsoft and the settling states. Anything less would clearly not vindicate the public interest.

II. REVIEW OF PUBLIC RECORD

15. Since May 1998, Microsoft has fought strenuously in the courtroom to defend its "freedom to innovate" and to continue with business as usual. In fact, plugging in "Microsoft + trial" into the Google search engine produces more than 697,000 article hits. When "Microsoft + politics" is entered into the search engine, Google produced nearly 448,000 articles and links. But as hard as it fought inside the courtroom, Microsoft fought far harder – often secretly – outside the courtroom to influence the outcome of the trial. In a campaign unprecedented in its size, scope, and cost, Microsoft used campaign contributions, phony front groups, intensive lobbying, biased polling, and other creative, if not possibly unethical, pressure and public relations tactics to escape from the trial with its monopoly intact. According to media accounts, experts, and my own research, Microsoft spent tens of millions of dollars to attempt to create an aura outside the courtroom of what it could not prove inside – innocence. According to *BusinessWeek* Magazine: "Even seasoned Washington hands say they have never seen anything quite as flamboyant as the Microsoft effort."[3]

16. In late 2001, when the Department of Justice and a group of state Attorneys General agreed to the currently proposed settlement, it appeared as if Microsoft's efforts were successful. Fortunately, two obstacles stand in the way of Microsoft and the continued monopolization of the

[3] BusinessWeek, May 15, 2000, Carney

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software industry: the remaining state Attorneys General who are continuing to litigate for a more effective remedy and the Tunney Act, which – among other things – requires Microsoft to divulge all of its dealings with the Administration and Congress in conjunction with the antitrust trial.

A. Campaign Contributions

17. In 1995, before the United States Department of Justice and state Attorneys General from 19 states and the District of Columbia brought an antitrust case against it, Microsoft had virtually no presence in Washington, D.C. The company had only one lobbyist working out of a Chevy Chase, Maryland sales office and had contributed less than $50,000 in the previous election cycle.[4] Its lobbyist, Jack Krumholtz, had no secretary and its PAC was financed by only $16,000. In those days, the Microsoft lobbying operation was affectionately referred to in press reports as "Jack and his Jeep."

18. However, since the beginning of the antitrust case against Microsoft, the company has become a major political contributor and was the fifth largest during the 2000 election cycle[5], alongside the giants of the tobacco, telecommunications, pharmaceuticals and insurance industries. Microsoft's political contributions to elected leaders in a position to help the software giant in this election cycle when the trial was at its peak, was greater than all previous, cumulative campaign contributions. In the history of American PACs, only three companies that have raised at least $50K in one election cycle have increased receipts by 500% in the next. In 1984-86, Drexel Burnham Lambert, the corrupt and now-defunct securities brokerage, increased its receipts from just under $67,000 to more than $446,000, a 567% jump. In that same cycle, AT&T, facing antitrust divestiture, increased its PAC receipts by 745%, from $215,000 to $1.8 million.

In the history of corporate PACs, only 68 have increased their spending by half in one election cycle after reaching a level of a quarter of a million dollars. Only 15 have doubled their spending in one election cycle after reaching that level. Only one -- Microsoft -- has approached tripling its spending after reaching that threshold. Microsoft increased its spending almost fivefold, from $267,000 to more than $1.2 million, between the 1997-98 and 1999-2000 election cycles. (Table 5.)

20. Every year, Microsoft tops itself. The company's political giving in the 2000 cycle – the time leading up to its day of judgment in federal court – *was again more than it contributed in all previous cycles combined.* Campaign money to candidates and political parties in just one state was greater than Microsoft's contributions from 1990 through 1996 to every state and federal candidate combined. (Note that the government first levied antitrust charges against Microsoft in 1995.)

Except for Microsoft, no corporate PAC sponsor in American history has increased its PAC receipts by an order of magnitude, starting from a base of $50,000 or more. Since 1986, the only such firm that has increased its PAC receipts by as much as 500% in one election cycle is

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[4] "The Microsoft Playbook" Common Cause

[5] San Francisco Chronicle, July 1, 2001, Wildermuth

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Microsoft. Receipts for Microsoft's PAC rose a record-setting 903%, from $59,790 in 1995-96 to just under $600,000 in 1997-98. (Table 1.)

Microsoft followed this by another jump of 165% in 1999-2000, to $1.59 million. (Table 2.) In the history of corporate PACs, only 15 have had as much as a 300% rise in receipts after achieving a base of $50,000. (That requires rising from at least $50,000 to at least $200,000.) None has ever followed such a rise with another three-digit percentage increase in receipts, except Microsoft. (That would require a subsequent rise to at least $400,000.)

21. Between 1995 and 2000, Microsoft donated more than $3.5 million to federal candidates and to the national parties, about two-thirds of which was contributed during the 2000 election cycle alone.[6] Including company and employee donations to political parties, candidates and PACs in the 2000 election cycle, Microsoft's giving (that of the company, its PAC and its employees) amounted to more than $6.1 million, far more than has been previously reported. [7] Nearly $1 million came in the 40 days immediately before the November 7th election. As most political operatives know, these late contributions often are made by donors who don't want their participation known until after the election, when financial reports for the final days of a campaign are due, and public and news media attention are no longer focused upon the election. The effect of delaying contributions until very near the election is to thwart efforts by the news media and the political opposition to make disclosures meaningful to voters before they vote.

i. Federal Contributions

(a) "Soft" Money

22. Comprising the majority of Microsoft's campaign contributions was soft money.[8] Like their overall presence in Washington, Microsoft's soft money donations grew substantially since the beginning of the antitrust trial. In fact, in the seven days preceding Judge Thomas Penfield Jackson's ruling against Microsoft, the company donated more in soft money to the national political parties than it gave to federal candidates and political parties between 1989 and 1996.

23. During the 1999-2000 election cycle, Microsoft and its executives accounted for some $2,298,551 in "soft money" contributions, according to FEC records. For context, consider that this was two-thirds more than the $1,546,055 in soft money contributed by the now-bankrupt Enron and its executives during the same period.

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[6] Common Cause

[7] Independent analysis of giving to elective office candidates and political parties and PACs federally and in all 50 states.

[8] "Soft" money is the term generally applied to unregulated, unlimited corporate and individual contributions that can not go to candidates but typically goes to political parties in support of party "efforts."

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As one business commentator put it: "...there's something quite disturbing about watching the world's richest man trying to buy his way out of trouble with Uncle Sam... Gates's actions undermine the legal system itself."[9]

(b) Political Action Committee (PAC) Money

24. Microsoft's PAC donations also grew substantially in the years since the beginning of the antitrust trial. In 1998, the company made a concerted effort to increase the size of its PAC. Within a matter of days, the company grew its PAC from $31,000 to $326,000.[10] Employees contributed $1.6 million to Microsoft's PAC for the 2000 election cycle which allowed the PAC to contribute more than $1.2 million.
The PAC began the 2002 election cycle with an impressive $772,000 cash-on-hand – more than any other American corporate PAC.

Microsoft's unprecedented rise as a political player took its PAC from just under $60,000 in 1995-96 receipts to just under $1.6 million in 1999-2000. In the history of corporate PACs, only two have had a rise of more than 1,000% in receipts over four years (two election cycles), after attaining $50,000. Only one, Microsoft, has had an increase of more than 2,000%. From 1995-96 through 1999-2000, Microsoft's PAC increased in size by more than 2,500%. (Table 4.)

[9] BusinessWeek, April 24, 2000, France
[10] ibid.

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(c) Party Breakdown

25. While Microsoft has donated to both national political parties, the company has tended to favor Republicans, who have been more vocal in their defense of the company. Between 1995 and 1998, 72% of Microsoft's contributions went to Republicans, while the GOP received only 55% of the company's donations during the 2000 election cycle.[11] Republicans received a total of $3.2 million, about half of which – $1.69 million – went to the national Republican Party.

26. Yet, when analyzing Microsoft's campaign contributions by donating entity, some stark disparities emerge. Virtually all of the money donated by individual Microsoft employees ($222,750) benefited Democratic 527s, groups that raise and spend money independent of political campaigns During this same period Microsoft employees gave $15,000 to Republican affiliated 527s. Democratic PACs also benefited from Microsoft's employees largesse, receiving $222,100 compared to just $42,875 for Republican PACs.

27. But Republicans enjoyed an edge in every other category; the majority of donations to leadership PACs, state parties and candidates went to the Republican Party. The following table illustrates the disparity.

	Republican	**Democrat**
Leadership PACs	$162,000	$41,500
State Parties	$255,025	$38,887
Candidates	$1,053,792	$818,951

(ii) State Contributions

28. Along with the Department of Justice, 19 states and the District of Columbia initially prosecuted Microsoft. Naturally, then, Microsoft concentrated a good deal of its campaign contributions on state races.

29. Candidates and political parties in all 50 states received contributions from Microsoft, but none more so than the company's home state of Washington, which received $830,478. Republicans received $359,000 while $458,000 went to Democrats. Nearly all of the $100,000 edge for the Democrats came from contributions to the State Democratic Party, which totaled $85,387.

30. One of the original states participating in the suit was South Carolina, whose attorney general, Charles Condon, was facing re-election in 1998. Shortly before the election, Microsoft contributed $25,000 to the South Carolina Republican Party. According to the Chairman of the South Carolina Republican Party this was the largest unsolicited donation ever received. Three weeks after he won,

[11] ibid.

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Attorney General Condon withdrew from the antitrust case. Two years ago, Condon solicited and received a $3,500 donation from Microsoft.[12]

31. In California, a state represented by Attorney General Bill Lockyer, Microsoft contributed $25,000 to the 1998 election campaign for challenger Dave Stirling, a Republican; a contribution made nine days before election day. The company contributed an additional $10,000 to gubernatorial democratic candidate Gray Davis, whose opponent was among the original 19 state attorneys general to bring the antitrust suit against Microsoft.

32. Within weeks of the 2000 election, Microsoft CEO Steve Ballmer made late contributions of $50,000 each to two state Republican Parties, Michigan and Washington, where Microsoft found its defenders under fire. Then U.S. Senator Spencer Abraham, a Michigan Republican who is now Secretary of Energy, had been an outspoken supporter of Microsoft. Former U.S. Senator Slade Gorton, a Washington state Republican, who proudly called himself "the Senator from Microsoft" had even sought to cut the funding of the Justice Department's Antitrust Division while the court case was ongoing.

33. Microsoft used back channels to direct even more undisclosed soft money into the 2000 Michigan Senate race. According to *The Wall Street Journal*, Microsoft "funneled" soft money into the race by secretly making undisclosed contributions to the Michigan Chamber of Commerce to fund negative ads aimed at Abraham's opponent, now U.S. Senator Deborah Stabenow. Some close to the Chamber have estimated that the contributions, while legal and not requiring reporting, may have amounted to more than $250,000.[13] Such contributions are usually made to organizations to support the organization's activities, not political ads – which is why there is no disclosure requirement. Microsoft knew this and took advantage of the loophole in Michigan. Political operatives throughout the country reported similar occurrences in other political races considered "top targets" by both national parties, but efforts to gain access to contributor lists from some of the "independent" groups believed to be accepting the contributions have unsuccessful.

34. Significant contributions were also made in Missouri by Microsoft to help re-elect Senator John Ashcroft, the current U.S. Attorney General. Missouri was another state where independent groups without significant resources of their own suddenly were flush with money to run ads defending Ashcroft and attacking his opponent. Ashcroft, whose campaign benefited greatly from Microsoft's disclosed campaign contributions - $19,000 in reported donations – lost his election bid. He now runs the federal executive department responsible for proposing the settlement offer, and his office is now staffed with political operatives who played a role in raising the $19,000 from Microsoft, coordinating his campaign efforts with those of Microsoft in Missouri, and in one case, directing the entire Republican National Committee fundraising and political campaign operation in the 2000 election cycle.

35. Deborah Senn, the Democratic primary opponent of Washington State Senator Cantwell, received $15,000 more from Microsoft than did Cantwell who received $30,150. This total, however, dwarfs the money poured into now-former Senator Gorton's campaign – $131,160. Only

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[12] USA Today, 5-30-00, Ullman, Drinkard
[13] Wall Street Journal, Oct. 16, 2000, Wilke

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Democratic Congressman Jay Inslee's total of $126,850 comes close to that of former Senator Gorton. Congressman Inslee represents Microsoft's home district, and defends the company vigorously in Washington, D.C.

36. In addition to those in Washington State, candidates or parties in three other states received contributions totaling six figures. California was second at $174,900 with virtually the entire amount going to Leadership PACs – Members' PACs that contribute money to other allied candidates – and directly to Members of Congress. Texas was third at $107,250 although this amount does not include contributions to the Bush/Cheney campaign. This was an unusually large amount for the state when compared to previous giving patterns.

37. While Microsoft contributed $100,000 to the Bush/Cheney Inaugural Committee in January 2001, virtually all contributions to presidential campaigns were made prior to July 31st, with the exception of contributions to Libertarian Party candidate Harry Browne's campaign. (This is presumably because, to be eligible for federal matching funds for the primaries and federal funding for the general election, major party candidates receiving are not allowed to solicit or receive campaign contributions after they are nominated at their conventions.) Only four primary presidential candidates received contributions greater than $10,000: Bill Bradley, $33,400; George Bush, $57,300; Al Gore, $28,000, John McCain $39,448.

Table 1. Candidates & Organizations Receiving $10,000 or more from Microsoft

Following is a breakdown of Microsoft's contributions of more than $10,000 to candidates and organizations during the 2000 election cycle.

Abraham for Senate	$24,650.00	Kerrey for US Senate	$10,000.00
Adam Smith for Congress	$31,750.00	Leadership PAC 2000 (Oxley)	$10,000.00
American Success PAC (Drier)	$11,750.00	Majority Leader's Fund (Armey)	$11,000.00
Ashcroft (combined)	$19,250.00	McCain 2000	$39,448.00
Bill Bradley for President	$33,400.00	McIntosh for Governor	$25,000.00
Brian Baird for Congress	$38,400.00	Michigan Republican State Ctte.	$50,000.00
Bush for President	$57,300.00	Montana Republican State Ctte.	$10,000.00
Bush/Cheney Inaugural	$100,000.00	NDN	$38,750.00
California FriendsLatino PAC	$10,000.00	New Majority Project	$15,000.00
California Women Vote	$10,000.00	New York Senate 2000	$40,000.00
Cantwell 2000	$30,150.00	NW Leadership PAC (Gorton)	$17,000.00
Citizens for Rick Larsen	$35,600.00	**Republican Party**	**$1,691,090.50**
DASHPAC	$10,000.00	Republican Campaign Committee of New Mexico	$33,492.48
Democratic Party	**$1,300,892.00**	Republican Majority Fund (Don Nickles)	$15,000.00
Democratic Party of Georgia	$20,000.00	Republican Party of Virginia	$12,000.00

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Dooley for Congress	$10,500.00
EMILY's List	$176,600.00
Ensign for Senate	$10,000.00
Feinstein 2000	$12,000.00
Friends for Slade Gorton	$131,160.00
Friends of Conrad Burns	$15,250.00
Friends of Heidi	$16,300.00
Friends of Jennifer Dunn	$14,700.00
Gore for President	$28,000.00
Inslee for Congress	$126,850.00
Jim Davis for Congress	$17,250.00
Jon Kyl for Senate	$11,000.00
Kennedy for Senate	$12,000.00

Republican Senate Council	$15,000.00
Santorum 2000	$11,000.00
Senn 2000	$45,651.00
Snowe for Senate	$10,000.00
TechNet	$10,000.00
Utah Republican Party	$29,383.00
Washington State Democratic Central Committee	$30,387.00
Washington State Republican Party	$104,150.00
Washington Victory Committee 1999	$35,500.00
Washington Victory Fund	$55,000.00
Washington Women Vote	$11,000.00
Western Republican PAC	$10,000.00
Women Vote 2000	$100,000.00

B. "Strategic" Philanthropy

38. Microsoft has also contributed money to the causes of politicians as yet another method to use donations, political in nature, to garner support and ultimately influence the outcome of the trial.

39. According to *USA Today*, Microsoft and the philanthropic arm of its founder and chairman, the Bill and Melinda Gates Foundation, "donate millions of dollars to causes and projects that are dear to the hearts of government policymakers, such as a $50,000 gift to the Congressional Black Caucus Foundation."[14] Shortly after the donation to the CBC, according to *BusinessWeek*, Microsoft gained an unlikely ally in the Caucus chairman, Representative James E. Clyburn (D-SC), "who represents one of the least technology-rich districts in the country."[15] In addition, a timely $10 million gift to the U.S. Capitol Visitor's Center further endeared Microsoft to many Members of Congress.

40. Yet the strategic philanthropy began long before the 2000 election cycle. According to the Gates Foundation web site, there was a three-year hiatus in philanthropic giving between 1995 and 1998. Curiously, the last donation in 1995 occurred just prior to the signing of the 1995 consent decree and the first donation in 1998 occurred the day prior to the Department of Justice filing its antitrust suit against Microsoft.

C. Lobbying

41. In addition to the millions Microsoft spent on campaign contributions, the company spent millions more lobbying Congress, the Administration and state officials to influence the outcome of the antitrust trial. Much like its campaign contributions, the company's lobbying presence in

[14] USA Today, May 30, 2000, Drinkard, Ullman
[15] BusinessWeek, May 15, 2000, Carney, Borrus, Greene

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Washington has grown significantly in the last few years, its growth accelerating rapidly at the outset of the antitrust trial. Once just Jack Krumholtz, the company's lobbying group now employs 40 people in Redmond and Washington. The company has hired a dozen lobbying firms and counts among its consultants and lobbyists some of the most prominent figures in politics. A company with 30,000 employees, Microsoft has more lobbyists on retainer than the handful of U.S. companies with more than 300,000 employees. According to *USA Today*, "in 1996, the company spent $1.2 million on its Washington lobbying operations. [In 1999], that figure topped $4.6 million." According to *BusinessWeek* in reference to the company's political spending, "These days, Microsoft money flows like champagne at a wedding."[16] Some of the biggest names in Washington going back 30 years represent Microsoft – many are former bosses of the people they lobby. There are more than a half-dozen former Members of Congress, four former White House Chief Counsels, countless dozens of former senior aides from the Congress, Justice Department and elsewhere throughout the highest levels of government.

i. Lobbying the Administration

42. Since the inauguration of George W. Bush in January 2001, Microsoft has made a concerted effort to strengthen its ties to the Administration. The Administration's decision to agree to a settlement widely accepted to be ineffective calls into question the nature of such ties.

43. Prior to the announcement of the settlement, for example, it has been reported there was an inappropriate, if not illegal, discussion between a senior aide to Attorney General John Ashcroft and a lobbyist for AOL-Time Warner.

44. According to the account in the *New York Times*, the senior aide to General Ashcroft is David Israelite. Israelite was the political director of the Republican National Committee which received more than a million dollars from Microsoft during the 2000 presidential campaign. In that role, Mr. Israelite directed fundraising operations and coordinated campaign activities between entities like Microsoft and the national party apparatus. Now General Ashcroft's deputy chief of staff in the Office of the Attorney General, Mr. Israelite recused himself from the case as a result of his ownership of 100 shares of Microsoft stock.

45. *The Times* wrote, "According to the notes of a person briefed about the conversation on Oct. 9, the day it is said to have occurred, Mr. Israelite called [AOL lobbyist] Mr. [Wayne] Berman. "Are you guys behind this business of the states hiring their own lawyers in the Microsoft case?' Mr. Israelite asked Mr. Berman in the predawn conversation, according to the notes. 'Tell your clients we wouldn't be too happy about that."

46. Israelite allegedly said on that call that the Supreme Court was soon to deny Microsoft's appeal, which would prompt the Department of Justice to seek a settlement. He was reported to have complained that AOL was "radicalizing" the states.[17] While the conversation was confirmed, the participants denied the content of the conversation. Still, it was enough to provoke angry responses from the technology industry and an accusation of "inappropriate and possibly illegal"

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[16] ibid.

[17] New York Times, Nov. 2, 2001

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conduct from a key House Democrat, Congressman John Conyers, Ranking Democratic Member of the House Judiciary Committee. In a letter to Attorney General Ashcroft, Rep. Conyers asked for more information about Israelite's alleged contacts with Berman, specifically asking for a list of contacts between Israelite and AOL officials. "If the allegations reported by the media are true, such active involvement by a recused public official could violate federal conflict of interest laws," Conyers wrote. [18]

ii. Lobbying on the Campaign Trail

47. Mirroring its political giving strategy, Microsoft's lobbying strategy has focused mainly on Republicans, while hedging its bets and simultaneously courting Democrats to a slightly lesser extent.

48. During the campaign, Microsoft Chairman Bill Gates was asked if a Republican administration would be a positive development for the company. It would "help," he said.[19] After all, before Judge Jackson ruled against Microsoft, then Governor Bush was quoted as saying that he stood "on the side of innovation, not litigation."

49. In fact, according to *Newsweek Magazine,* Bill Gates's visit to then Governor Bush in Austin was "part of a delicate political dance between the software giant and the Republican Party. ... Dollar signs in their eyes, GOP leaders covet big political contributions from Microsoft's coffers. In turn, Microsoft executives, plagued by the Clinton Justice Department's lawsuit, hope that a Republican president and Congress might shut down the efforts to punish the company."

50. A number of other Microsoft executives, lobbyists and other paid counsel lead back to the Bush camp. The company's Chief Operating Officer, Steve Ballmer, served then Governor Bush as a technology adviser. Tony Feather, former Bush political director, is a partner with a Republican consulting firm Microsoft hired to manage grassroots lobbying efforts. And Microsoft has paid lobbyist and former head of the Republican Party Haley Barbour hundreds of thousands of dollars to assist the company in Washington. The company has also hired Vin Weber, a former Republican Congressman, and Michael Deaver, the former White House chief of staff and trusted adviser credited with crafting President Ronald Reagan's image and campaign advertisements in the 1980s.

51. In addition, Microsoft retained the services of Ralph Reed's Century Strategies "for the stated purpose of improving the company's public image."[20] Reed's firm – a paid consultant to the Bush campaign -- aimed itself at mobilizing Bush supporters to express to the candidate their dissatisfaction with the antitrust trial. Once it was reported in the *New York Times*, the firm issued an apology. The Wall Street Journal later reported more on Ralph Reed's lobbying efforts on Microsoft's behalf:

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[18] The Kansas City Star, Nov. 8, 2000, Kraske
[19] Common Cause, "The Microsoft Playbook"
[20] ibid.

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> "**BOUNTY PAYMENTS** are offered for pro- Microsoft letters and calls.
>
> Republican Ralph Reed 's lobbying firm coordinates a network of public-relations and lobbying partners that generates grass-roots comments for cash. Payments are for letters, calls and visits to lawmakers and policy makers. An e-mail offers sample letters opposing a Microsoft breakup.
>
> A letter to a member of Congress from a mayor or local Republican Party official is worth $200, the guidelines say. A " premier " letter or visit by a fund-raiser known to the lawmaker or a family member can be worth up to $450 apiece. An op-ed piece in local papers fetches $500."[21]

52. Microsoft was lobbying the Democratic side as well. Like its team of Republican all-stars, Microsoft's team of Democrats had very close ties to its party as well. The team included "super lobbyist" Tommy Boggs, a top Washington insider with deep Democratic ties, Tom Downey, a former Democratic Congressman with close ties to former Vice President Al Gore, and Craig Smith, former campaign manager for Gore and board member of the Microsoft front group, Americans for Technology Leadership. As a board member of the ATL, Smith wrote to the Democratic National Committee urging his fellow party members to abandon support for the antitrust case, citing that support "would make us vulnerable to attack in the general election."[22]

53. The company also hired Ginny Terzano, former Gore press secretary, and tobacco industry ad man Carter Eskew, a former Gore adviser-cum-Microsoft image consultant who helped craft the company's 1999 advertising campaign aimed at bolstering its reputation as a "good corporate citizen." Also retained by Microsoft was super-lobbyist Jack Quinn, former Chief of Staff to Vice President Al Gore and White House Counsel.

iii. Lobbying Capitol Hill

54. But Microsoft did not focus solely on lobbying those who would soon be in control of the Department of Justice. Microsoft also waged a massive lobbying campaign aimed at Congress.

55. Alongside its Administration-oriented team, Microsoft recruited more lobbyists and consultants with ties to Members of Congress on both sides of the aisle. Republican hires included Allison McSlarrow, former deputy chief of staff to Senate Majority Leader Trent Lott, Ed Kutler, former assistant to then Speaker of the House Newt Gingrich, Mitch Bainwol, former chief of staff to the Senate Republican Caucus and the Republcian National Committee, Kerry Knott, former chief of staff to House Majority Leader Richard Armey, Ed Gillespie, former Armey and Republican National Committee communications director, and Mimi Simoneaux, former legislative director to House Commerce Committee Chairman Billy Tauzin, who was then-chairman of the House subcommittee with jurisdiction over the technology industry.

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[21] WSJ, Oct. 20, 2000

[22] Common Cause, "The Microsoft Playbook"

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56. Among the Democrats lobbying on behalf of Microsoft were Jamie Houton, former associate director of the Senate Democratic Steering Committee, former Democratic Representative Vic Fazio, the third-highest ranking House Democrat, and his former top staffer Tom Jurkovich.

57. Despite Microsoft's assertion in its mere three-page Tunney Act disclosure filing, the company has incessantly used its tremendous resources to contact and influence Members of Congress. Over the course of a 16-month period beginning in 1999, Microsoft flew at least 130 Members of Congress or their staff to the company's headquarters in Redmond, Washington to lobby on a number of issues, including the antitrust case.

58. Perhaps the most egregious example of its heavy-handed largesse came in late 1999, when Microsoft lobbied Congress to cut $9 million from the budget for the Department of Justice's Antitrust Division, the very body that was leading the prosecution against Microsoft. Pilloried industries like the gun and tobacco had considered and rejected the strategy as overly bold.

59. According to the *Washington Post*, "Nonprofit organizations that receive financial support from [Microsoft] have also urged key congressional appropriators to limit spending for the division... . The non profits made their request in a letter last month after an all-expenses-paid trip to Microsoft headquarters in Redmond, Washington, where they were entertained and briefed on an array of issues facing the company." Further discussion follows in the next section entitled "Front Groups."

60. After the previously secret letters from these non-profit groups were exposed, news of the attempts received widespread bipartisan criticism from media and politicians alike. House Judiciary Committee Chairman Henry Hyde (R-IL), called the division "one of the best-run departments in the government." Senator Herb Kohl, a Democrat on the Senate Judiciary Committee's antitrust subcommittee, said "it would set [a] terrible precedent to alter the division's budget based on one case alone." "It's like the Mafia trying to defund the FBI," said a prominent member of the Washington antitrust bar.[23] According to Jan McDavid, a lawyer with the Washington firm of Hogan & Hartson and chairperson of the American Bar Association's antitrust section, the section's policy states that it "opposes the use of the congressional budget and appropriations process to intervene in or influence ongoing antitrust enforcement matters."[24] One congressional GOP staffer went as far as to say that Microsoft's lobbying had "the odor of obstruction."[25]

61. Not surprisingly, Senator Slade Gorton, a Republican from Microsoft's home state of Washington, was adamantly supportive of the idea. Between 1997 and 1999, he received more than $50,000 from Microsoft and its employees. During the 2000 election cycle, Gorton's PAC received $17,000 while the Washington State Republican Party received more than $100,000.

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[23] Reuters, Oct. 17, 1999, Lawsky
[24] ibid.
[25] WSJ, Oct. 15, 1999

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iv. Lobbying the States

62. Because 19 state attorneys general initiated the antitrust case alongside the Department of Justice, Microsoft initiated a state lobbying campaign aimed at influencing those attorneys general to back away from the case. Microsoft even hired former Iowa House Speaker Donald Avenson to lobby the state's Attorney General, who was leading the group of states prosecuting the company. While Microsoft has retained professional "grassroots consultants" and others in many states, according to published reports, it is their efforts in the 19 states with Attorneys General who brought suit against them where the real pressure has occurred. In those states they have retained former lawmakers, law partners of the Attorneys General, their predecessors in that same office, business associates, and their own trusted political consultants. Microsoft has also hired those on whom the AGs are often most politically dependent, such as union leaders and activists in states with Democratic Attorneys General, and fiscally conservative activists in state with Republican AGs.

63. Perhaps the company's most successful effort to influence the state attorneys general came in 1998, when, three days after a $25,000 contribution to the South Carolina Republican Party, the state's Attorney General, Charles Condon, announced that he would withdraw from the case.

64. Yet, a few of its grassroots efforts targeted at the states have done more harm than good. Because of the unprecedented size, scope and cost of Microsoft's campaign, a number of high profile gaffes have exhibited the true nature of Microsoft's "public support" and the depths to which the company will go to influence the outcome of the trial.

65. In August 2001, the *Los Angeles Times* reported that two letters received by the Utah Attorney General's office, one of the prosecuting states, were sent by dead men. The campaign was funded by Craig Smith's Americans for Technology Leadership. Despite its claims to represent "thousands of small and mid-sized technology companies," news reports have repeatedly characterized ATL and its counterpart, the Association for Competitive Technology (ACT) as essentially wholly-owned subsidiaries of Microsoft Corp., whose funding launched and sustains both groups.[26] Other characteristics of the letter writing campaign to the Attorneys General included similar phrases popping up again and again, invalid return addresses, and even masses of identical letters with different signatories.

66. In one news story, Jim Prendergast, director of ATL, initially admitted only to providing letter writers with "message points." "We gave them a few bullet points, but that's about the extent of it," he said. When asked why identical phrases were popping up again and again, he confessed that sometimes ATL did indeed provide whole letters for the citizens to sign and send. "We'd write the letter and then send it to them," he admitted.

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[26] "Microsoft's All-Out Counterattack." Dan Carney, with Amy Borrus. BusinessWeek May 15, 2000; "Microsoft's Lobbying Largess Pays Off; Back-Channel Effort Wins Support for Case." James V. Grimaldi. Washington Post May 17, 2000; "Microsoft leans creatively on levers of political power as breakup decision looms, 'stealth' lobbying efforts aim for survival." Jim Drinkard and Owen Ullmann. USA Today May 30, 2000

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67. According to the same article, other states, like Minnesota and Iowa, were subjected to Microsoft's full-press grassroots lobbying campaign. Both states are participants in the antitrust case. In the case of Iowa, Attorney General Tom Miller received more than 50 letters in a month's time calling on him to drop the case. While none of the letters were identical, several phrases were similar. In four of the letters, for example, the following sentence appeared: "Strong competition and innovation have been the twin hallmarks of the technology industry." Three others contained this sentence: "If the future is going to be as successful as the recent past, the technology sector must remain free from excess regulation."[27]

68. Minnesota Attorney General Michael Hatch, who received 300 identical letters, characterized the campaign as "sleazy." Many of the letter writers were misled by Microsoft and one even wrote by hand to Attorney General Hatch to say so and to apologize for his previous letter. "I sure was misled," he wrote. "It's time for you to get out there and kick butt."[28]

vi. Tying Up the Lobbyists and Lawyers

69. A frequently employed tactic of Microsoft is to retain all major lobbying firms in key states so that its opposition cannot. Similarly, the company has hired many Washington, D.C.-based law firms with antitrust expertise to work on issues not related to the antitrust case. "They've got the whole town conflicted out," said one attorney. "They've sucked out all the oxygen."[29]

D. Front Groups

70. Supporting its political contributions and lobbying campaign, Microsoft undertook an aggressive public relations campaign aimed at "creating the appearance of a groundswell of public support for the company."[30]

71. In April 1998, a reporter for the *Los Angeles Times* received a package of confidential materials created by Edelman Public Relations for its client, Microsoft. Among the documents was a media relations strategy for a "multi-million dollar" campaign aimed at stemming the rash of antitrust investigations being undertaken by a number of states in conjunction with the federal government's investigation. According to the reporters, Greg Miller and Leslie Helm, "the elaborate plan ... hinges on a number of unusual – and some say unethical – tactics, including the planting of articles, letters to the editor and opinion pieces to be commissioned by Microsoft's top media handlers but presented by local firms as spontaneous testimonials."[31] While Microsoft contends that this strategy was never implemented, a number of the company's activities since the outset of the trial clearly indicate that most of the elements have been employed, at times repeatedly.

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[27] Los Angeles Times, August 23, 2001
[28] Los Angeles Times, August 23, 2001
[29] Business Week, May 15, 2000, Borrus, Carney, Greene
[30] "Trust Us, We're Experts" Sheldon Rampton and John Stauber, p. 8
[31] ibid.

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72. Throughout the antitrust trial, Microsoft relied heavily on many "independent" groups to support the company and to oppose the suit publicly. Some groups they created themselves out of whole cloth during the trial. Others sullied their long, distinguished backgrounds by trading hard cash for the use of their good names. Many denied any involvement with Microsoft, claiming that their passion came from concern for the economy or "innovation" – only to later be unmasked by the news media when evidence of their financial dealings with Microsoft came to light. One account suggests Microsoft has harnessed at least 15 advocacy groups and think tanks that use Microsoft donations to spread the company's message through polls, news conferences, Web sites, letters to the editor, research papers, opinion pieces and letter-writing campaigns aimed at lawmakers.[32]

73. Groups with names like Americans for Technology Leadership and the Association for Competitive Technology had the veneer of genuine independence, but were actually founded by Microsoft, launched with Microsoft dollars, and work on few other issues than the defense of Microsoft in its antitrust trial.

74. Even well known Washington, D.C. organizations with strong ties to the Administration and to Congress were well funded by Microsoft – respected fiscally conservative groups like Grover Norquist's Americans for Tax Reform, former White House Counsel C. Boyden Grey's Citizens for a Sound Economy, the National Taxpayers Union and Citizens Against Government Waste. But upon closer scrutiny, the true ties of these groups to Microsoft became apparent. By paying for pro-Microsoft advertisements, by sponsoring publications, by donating money outright, Microsoft both ensured and devalued their support.

75. According to *BusinessWeek*, Microsoft "secretly funds those that do its public-relations work and pulls funding from those that dare question its positions."[33] On one such occasion, Microsoft pulled funding from the American Enterprise Institute once one of its fellows, Robert Bork, came out in favor of the antitrust trial even though the institute itself has no position on the trial and many of its technical and antitrust experts have expressed their opposition to the case. In another case, they quit a technology industry trade group, the Software and Information Industry Association, because a majority of its members supported the antitrust case.

i. Independent Institute

76. In one instance, Microsoft paid for the placement of newspaper advertisements by the California-based Independent Institute. Published in June 1999 in the *New York Times* and the *Washington Post*, the full-page ads featured a pro-Microsoft letter signed by 240 academics. Nothing in the ad's copy indicated to readers who – other than the Institute itself – was paying for the ads. Apparently, no one at the Independent Institute indicated to the letter's 240 signatories

[32] USA TODAY, "Microsoft leans creatively on levers of political power as breakup decision looms, 'stealth' lobbying efforts aim for survival" by Jim Drinkard and Owen Ullmann, May 30, 2000

[33] Business Week, May 15, 2000, Carney, Borrus, Greene

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who was paying for the ad either. One signatory, Professor Simon Hakim of Temple University, stated that he would not have signed on to the advertisement had he known who was behind it.[34]

77. At a Washington, D.C. press conference unveiling the ads, Independent Institute president David Theroux answered a reporter's specific question about whether Microsoft had anything to do with the ads, including paying for them, with a resounding "no." When questioned months later by the *New York Times*, Theroux again denied that Microsoft paid for the ads. He said, instead, that the ads "were paid for out of our general funds." He also said the "implication that Microsoft had any influence is ridiculous."[35] But, according to a front-page article later written in the *New York Times*, "among the institute's internal documents is a bill from Mr. Theroux sent to John A. C. Kelly of Microsoft for the full costs of the ads, plus his travel expenses from San Francisco to Washington for the news conference, totaling $153,868.67. Included was a $5,966 bill for airline tickets for himself (Theroux) and a colleague. Unfortunately, he wrote Mr. Kelly, 'the airlines were heavily booked' and 'we had to fly first class to D.C. and business class on the return.'" Furthermore, despite additional statements from its president that it "adheres to the highest standards of independent scholarly inquiry," internal institute documents have shown that, having contributed more than $200,000, or 20% of the institute's total outside contributions, Microsoft "secretly served as the institute's largest outside benefactor [in 1999]."[36] It wasn't until September that the institute finally admitted the extent of Microsoft's support.

78. In these instances, as in others, Microsoft's behavior outside the courtroom had a direct impact on the proceedings inside the courtroom. According to the *New York Times*, the ads prompted not only more news stories but also courtroom discussion.[37] Microsoft also covered the costs of the publication of the institute's book, "Winners, Losers and Microsoft: Competition and Antitrust in High Technology," which Microsoft's economic witness in the trial then used to support his own testimony.

ii. Biased Polling

79. According to *BusinessWeek*, Microsoft has also commissioned polls to help foster an image of great public support for the company. At the outset of the 2000 presidential campaign, around the time of the Iowa caucus and the New Hampshire primary, Microsoft funded polls aimed at demonstrating the public's opposition to the antitrust case. Once the results were in, Microsoft distributed the results to the media in order to compel the candidates to incorporate their opposition to the case into their platform.

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[34] I am aware there have been allegations that material relating to the Independent Institute was uncovered by Investigative Group International (IGI), allegedly retained by Oracle Corporation. My understanding of the circumstances indicates that employees of IGI's were terminated as a result of their actions. I have not reviewed those allegations specifically, since the subject of my review was defendant, Microsoft Corporation. Regardless, neither the Independent Institute nor Microsoft ever denied the validity of the claims after they were exposed.
[35] Associated Press, September 18, 1999
[36] New York Times, Sept. 19, 1999
[37] New York Times, Sept. 19, 1999

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80. In addition, while the state Attorneys General were working through the spring on formulating a remedy, Microsoft front group Americans for Technology Leadership conducted and issued the results of a poll, which concluded that the public wanted the Attorneys General to focus their time and energy on other issues. In this case, Microsoft failed to disclose the nature of its relationship with ATL and the source of funding for the poll.

iii. Targeting the Antitrust Division of the Department of Justice

81. As stated above, one of Microsoft's most egregious attempts to use lobbying to influence the outcome of the antitrust trial came when the company lobbied to cut funding for the Antitrust Division of the Department of Justice. Microsoft funded a host of third parties to push forth its agenda.

82. In September 1999, the company flew representatives from about 15 major Washington, D.C.-based think tanks to Microsoft's Redmond, Washington headquarters "for three days of briefings that included tickets to a Seattle Mariners game and dinner and entertainment at Seattle's Teatro ZinZani, according to an itinerary."[38] Among the groups were Citizens for a Sound Economy, the National Taxpayers Union and Americans for Tax Reform, whose president, Grover Norquist, received $40,000 in lobbying payments from Microsoft during the second half of 1998.

83. Two days after returning from the trip, those three groups and three others secretly sent a letter to House appropriators urging that the Antitrust Division receive the lowest amount of funding proposed. In a coordinated effort, on the same day one of Microsoft's own lobbyists, Kerry Knott, met with Rep. Dan Miller of Florida to urge him to grant the Antitrust Division the lower amount of funds. That meeting prompted Rep. Miller to write to the chairman of the House Appropriations Commerce, Justice, State and Judiciary Subcommittee that "it would be a devastating blow to the high-tech industry and to our overall economy if the federal government succeeds in its efforts to regulate this industry through litigation." According to the Washington Post, "Miller said that while he objects to the funding on fiscal grounds, he had not focused on it until Knott and Citizens for a Sound Economy spokeswoman Christin Tinsworth, a former Miller staffer, made their pitch just off the House floor."[39]

84. A *Washington Post* editorial summarized the propriety of the incident this way: "[T]he fact that Microsoft has the right to lobby ... doesn't make the lobbying any less unseemly. If Microsoft has a gripe, it should make its complaint to the court hearing its case."[40]

III. CONCLUSIONS

85. The end result of Microsoft's unprecedented political campaign seems to have been rewarded by the weak settlement presented by the Department of Justice.

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[38] The Washington Post, Oct. 15, 1999, Morgan, Eilperin
[39] ibid.
[40] Washington Post, Oct. 24, 1999

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Respectfully Submitted,

Edward Roeder
January 28, 2002

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APPENDIX A: Selected Tables

Table 1. Rapid Rises in Corporate PAC Fundraising, 1979-2002
(After Raising More than $50,000)

Microsoft Corporation				Formed: 1987-88
Total Raised, 1995-96:	$59,750			
Total Raised, 1997-98:	$599,568			
Difference:	$539,818 =	903.46%	Rank: 1	
American Telephone & Telegraph Co.				Formed: 1983-84
Total Raised, 1983-84:	$215,423			
Total Raised, 1985-86:	$1,820,621			
Difference:	$1,605,198 =	745.14%	Rank: 2	
Drexel Burnham Lambert Group, Inc.				Formed: 1981-82
Total Raised, 1983-84:	$66,844			
Total Raised, 1985-86:	$446,279			
Difference:	$379,435 =	567.64%	Rank: 3	
Safari Club International				Formed: 1979-80
Total Raised, 1993=94:	$94,149			
Total Raised, 1995-96:	$545,915			
Difference:	$451,766 =	479.84%	Rank: 4	
Fluor Corporation				Formed: 1979-80
Total Raised, 1987-88:	$87,236			
Total Raised, 1989-90:	$494,417			
Difference:	$407,181 =	466.76%	Rank: 5	
Dow Chemical, USA - HQ				Formed: 1979-80
Total Raised, 1995-96:	$60,290			
Total Raised, 1997-98:	$331,286			
Difference:	$270,996 =	449.49%	Rank: 6	
Lucent Technologies, Inc.				Formed: 1995-96
Total Raised, 1995-96:	$87,568			
Total Raised, 1997-98:	$464,592			
Difference:	$377,024 =	430.55%	Rank: 7	
Nat'l Star Route Mail Contractors Ass'n				Formed: 1981-82
Total Raised, 1995-96:	$63,512			
Total Raised, 1983-84:	$313,609			
Difference:	$250,097 =	393.78%	Rank: 8	

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Eastern Airlines, Inc. Formed: 1979-80
Total Raised, 1985-86: $53,309
Total Raised, 1987-88: $243,529
Difference: $190,220 = 356.83% Rank: 9

Pacific Telesis Group Formed: 1979-80
Total Raised, 1981-82: $65,538
Total Raised, 1983-84: $280,183
Difference: $214,645 = 327.51% Rank: 10

Henley Group/Wheelabrator Technologies, Inc. Formed: 1979-80
Total Raised, 1985-86: $89,255
Total Raised, 1987-88: $380,102
Difference: $290,847 = 325.86% Rank: 11

Firstar (First Wisconsin) Corp. Formed: 1979-80
Total Raised, 1997-98: $113,743
Total Raised, 1999-00: $480,239
Difference: $366,496 = 322.21% Rank: 12

U.S. West, Inc. Formed: 1983-84
Total Raised, 1987-88: $123,767
Total Raised, 1989-90: $521,886
Difference: $398,119 = 321.67% Rank: 13

CSX Corp. - Jeffboat Formed: 1981-82
Total Raised, 1997-98: $74,125
Total Raised, 1999-00: $303,763
Difference: $229,638 = 309.80% Rank: 14

J. P. Morgan & Company, Inc. Formed: 1979-80
Total Raised, 1983-84: $68,569
Total Raised, 1985-86: $274,515
Difference: $205,946 = 300.35% Rank: 15

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data, Jan. 1, 1979 through Dec. 31, 2000.

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Table 2. Continued Rises in Corporate PAC Fundraising, 1979-2002 Following Rapid Rise of More than 300% from a base of $50,000+
(Ranked by Percentage Rise in Next Election Cycle)

Microsoft Corporation			Formed: 1987-88	
Total Raised, 1995-96:	$59,750			
Total Raised, 1997-98:	$599,568			
Difference:	$539,818 =	903.46%		
Next Cycle: 1999-00				
Total Raised:	$1,589,684			
Difference:	$990,116 =	165.14%	Rank:	1
J. P. Morgan & Company, Inc.			Formed: 1979-80	
Total Raised, 1983-84:	$68,569			
Total Raised, 1985-86:	$274,515			
Difference:	$205,946 =	300.35%		
Next Cycle: 1987-88				
Total Raised:	$514,285			
Difference:	$239,770 =	87.34%	Rank:	2
American Telephone & Telegraph Co.			Formed: 1983-84	
Total Raised, 1983-84:	$215,423			
Total Raised, 1985-86:	$1,820,621			
Difference:	$1,605,198 =	745.14%		
Next Cycle: 1987-88				
Total Raised:	$3,043,510			
Difference:	$1,222,889 =	67.17%	Rank:	3
U.S. West, Inc.			Formed: 1983-84	
Total Raised, 1987-88:	$123,767			
Total Raised, 1989-90:	$521,886			
Difference:	$398,119 =	321.67%		
Next Cycle: 1991-92				
Total Raised:	$734,130			
Difference:	$212,244 =	40.67%	Rank:	4
Pacific Telesis Group			Formed: 1979-80	
Total Raised, 1981-82:	$65,538			
Total Raised, 1983-84:	$280,183			
Difference:	$214,645 =	327.51%		
Next Cycle: 1985-86				
Total Raised:	$364,113			
Difference:	$83,930 =	29.96%	Rank:	5

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Fluor Corporation Formed: 1979-80
Total Raised, 1987-88: $87,236
Total Raised, 1989-90: $494,417
Difference: $407,181 = 466.76%
Next Cycle: 1991-92
Total Raised: $610,142
Difference: $115,725 = 23.41% Rank: 6

Nat'l Star Route Mail Contractors Ass'n Formed: 1981-82
Total Raised, 1995-96: $63,512
Total Raised, 1983-84: $313,609
Difference: $250,097 = 393.78%
Next Cycle: 1985-86
Total Raised: $43,468
Difference: $2,269 = 5.51% Rank: 7

Firstar (First Wisconsin) Corp. Formed: 1979-80
Total Raised, 1997-98: $113,743
Total Raised, 1999-00: $480,239
Difference: $366,496 = 322.21%
Next Cycle: (data incomplete, cycle now in progress)

CSX Corp. - Jeffboat Formed: 1981-82
Total Raised, 1997-98: $74,125
Total Raised, 1999-00: $303,763
Difference: $229,638 = 309.80%
Next Cycle: (data incomplete, cycle now in progress)

Dow Chemical, USA - HQ Formed: 1979-80
Total Raised, 1995-96: $60,290
Total Raised, 1997-98: $331,286
Difference: $270,996 = 449.49%
Next Cycle: 1999-00
Total Raised: $279,618
Difference: $-51,668 = -15.60% Rank: 10

Lucent Technologies, Inc. Formed: 1995-96
Total Raised, 1995-96: $87,568
Total Raised, 1997-98: $464,592
Difference: $377,024 = 430.55%
Next Cycle: 1999-00
Total Raised: $343,462
Difference: $-121,130 = -26.07% Rank: 11

Drexel Burnham Lambert Group, Inc. Formed: 1981-82
Total Raised, 1983-84: $66,844
Total Raised, 1985-86: $446,279

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Difference: $379,435 = 567.64%
Next Cycle: 1987-88
Total Raised: $310,188
Difference: $-136,091 = -30.49% Rank: 12

Safari Club International Formed: 1979-80
Total Raised, 1993=94: $94,149
Total Raised, 1995-96: $545,915
Difference: $451,766 = 479.84%
Next Cycle: 1997-98
Total Raised: $378,078
Difference: $-167,837 = -30.74% Rank: 13

Eastern Airlines, Inc. Formed: 1979-80
Total Raised, 1985-86: $53,309
Total Raised, 1987-88: $243,529
Difference: $190,220 = 356.83%
Next Cycle: 1989-90
Total Raised: $105,734
Difference: $-137,795 = -56.58% Rank: 14

Henley Group/Wheelabrator Technologies, Formed: 1979-80
Total Raised, 1985-86: $89,255
Total Raised, 1987-88: $380,102
Difference: $290,847 = 325.86%
Next Cycle: 1989-90
Total Raised: $141,072
Difference: $-239,030 = -62.89% Rank: 15

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data, Jan. 1, 1979 through Dec. 31, 2000.

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Table 3. Largest Cash Balances at end of 1999-2000 Election Cycle
American Corporate PACs

Rank	PAC Sponsor	Cash on Hand
1	Microsoft Corporation	$712,874
2	Southern Bell Telephone & Telegraph Co.	$617,922
3	Crawford Group / Enterprise Leasing	$611,442
4	Southwestern Bell Corporation	$550,841
5	Chrysler / Gulfstream Aerospace Corp.	$481,068
6	Federal Express Corporation	$424,739
7	NationsBank	$413,663
8	First Union Corporation	$410,242
9	First Bank System, Inc.	$405,187
10	Stone Container Corporation	$368,973
11	General Electric Company	$359,469
12	National Health Corporation	$340,205
13	Exxon Corporation	$328,559
14	Outback Steakhouse, Inc.	$325,977
15	Columbia / HCA Healthcare	$284,827
16	American Family Corporation	$283,963
17	Cooper Industries, Inc.	$281,054
18	Suntrust Banks, Inc.	$275,779
19	Winn-Dixie Stores, Inc.	$273,232
20	Jacobs Engineering Group, Inc.	$272,982
21	Ford Motor Company	$264,914
22	U.S. West, Inc.	$261,289
23	Compass Bancshares, Inc.	$253,625

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data.

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Table 4. Largest Percentage Increases in Receipts Over Two Election Cycles

American Corporate PACs With More Than $50,000

Microsoft Corporation				Formed:1987-88
Total Raised, 1995-96:	$59,750			
Total Raised, 1999-00:	$1,589,684			
Difference:	$1,529,934 =	2,560.56%	Rank: 1	
American Telephone & Telegraph Co.				Formed:1983-84
Total Raised, 1983-84:	$215,423			
Total Raised, 1987-88:	$3,043,510			
Difference:	$2,828,087 =	1,312.81%	Rank: 2	
Firstar (First Wisconsin) Corp.				Formed:1979-80
Total Raised, 1995-96:	$59,437			
Total Raised, 1999-00:	$480,239			
Difference:	$420,802 =	707.98%	Rank: 3	
J. P. Morgan & Company, Inc.				Formed:1979-80
Total Raised, 1983-84:	$68,569			
Total Raised, 1987-88:	$514,285			
Difference:	$445,716 =	650.03%	Rank: 4	
U.S. West, Inc.				Formed:1983-84
Total Raised, 1985-86:	$69,588			
Total Raised, 1989-90:	$521,886			
Difference:	$452,298 =	649.97%	Rank: 5	
Bell Atlantic Corp.				Formed:1983-84
Total Raised, 1993=94:	$146,949			
Total Raised, 1997-98:	$1,046,617			
Difference:	$899,668 =	612.23%	Rank: 6	
Fluor Corporation				Formed:1979-80
Total Raised, 1987-88:	$87,236			
Total Raised, 1991-92:	$610,142			
Difference:	$522,906 =	599.42%	Rank: 7	
Dow Chemical, USA - HQ				Formed:1979-80
Total Raised, 1993=94:	$53,297			
Total Raised, 1997-98:	$331,286			
Difference:	$277,989 =	521.58%	Rank: 8	

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GA Technologies, Inc. Formed:1987-88
Total Raised, 1987-88: $51,702
Total Raised, 1991-92: $320,081
Difference: $268,379 = 519.09% Rank: 9

U.S. West, Inc. Formed:1983-84
Total Raised, 1987-88: $123,767
Total Raised, 1991-92: $734,130
Difference: $610,363 = 493.15% Rank: 10

American Information Technologies Corp. Formed:1983-84
Total Raised, 1989-90: $233,266
Total Raised, 1993=94: $1,370,945
Difference: $1,137,679 = 487.72% Rank: 11

Allied-Signal, Inc. Formed:1979-80
Total Raised, 1981-82: $65,703
Total Raised, 1985-86: $384,530
Difference: $318,827 = 485.25% Rank: 12

Glaxo, Inc. Formed:1985-86
Total Raised, 1989-90: $106,192
Total Raised, 1993=94: $607,224
Difference: $501,032 = 471.82% Rank: 13

Nynex Corporation Formed:1983-84
Total Raised, 1991-92: $62,304
Total Raised, 1995-96: $346,809
Difference: $284,505 = 456.64% Rank: 14

Pacific Telesis Group Formed:1979-80
Total Raised, 1981-82: $65,538
Total Raised, 1985-86: $364,113
Difference: $298,575 = 455.58% Rank: 15

Philip Morris, Inc. Formed:1979-80
Total Raised, 1979-80: $93,291
Total Raised, 1983-84: $499,938
Difference: $406,647 = 435.89% Rank: 16

American Electric Power Company, Inc. Formed:1979-80
Total Raised, 1995-96: $106,155
Total Raised, 1999-00: $545,295
Difference: $439,140 = 413.68% Rank: 17

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Waste Management, Inc. Formed:1979-80
Total Raised, 1981-82: $76,738
Total Raised, 1985-86: $391,637
Difference: $314,899 = 410.36% Rank: 18

Cigna Corporation Formed:1979-80
Total Raised, 1979-80: $56,174
Total Raised, 1985-86: $286,319
Difference: $230,145 = 409.70% Rank: 19

LDDS Communications, Inc. Formed:1987-88
Total Raised, 1993=94: $63,542
Total Raised, 1997-98: $323,680
Difference: $260,138 = 409.40% Rank: 20

Safari Club International Formed:1979-80
Total Raised, 1991-92: $107,314
Total Raised, 1995-96: $545,915
Difference: $438,601 = 408.71% Rank: 21

Michigan Bell Telephone Company Formed:1979-80
Total Raised, 1983-84: $53,326
Total Raised, 1987-88: $266,944
Difference: $213,618 = 400.59% Rank: 22

El Paso Company Formed:1979-80
Total Raised, 1995-96: $75,920
Total Raised, 1999-00: $379,370
Difference: $303,450 = 399.70% Rank: 23

Merrill Lynch & Company, Inc. Formed:1979-80
Total Raised, 1979-80: $56,895
Total Raised, 1983-84: $282,297
Difference: $225,402 = 396.17% Rank: 24

Federal Express Corporation Formed:1983-84
Total Raised, 1983-84: $230,478
Total Raised, 1987-88: $1,139,978
Difference: $909,500 = 394.61% Rank: 25

MBNA Corporation Formed:1991-92
Total Raised, 1991-92: $184,764
Total Raised, 1995-96: $903,599
Difference: $718,835 = 389.06% Rank: 26

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MCI Telecommunications Corporation Formed:1983-84
Total Raised, 1993=94: $104,688
Total Raised, 1997-98: $510,195
Difference: $405,507 = 387.35% Rank: 27

Smith Barney & Company Formed:1979-80
Total Raised, 1995-96: $128,843
Total Raised, 1999-00: $627,332
Difference: $498,489 = 386.90% Rank: 28

Chrysler / Gulfstream Aerospace Corp. Formed:1979-80
Total Raised, 1981-82: $77,152
Total Raised, 1985-86: $373,792
Difference: $296,640 = 384.49% Rank: 29

American Information Technologies Corp. Formed:1983-84
Total Raised, 1987-88: $105,465
Total Raised, 1991-92: $501,210
Difference: $395,745 = 375.24% Rank: 30

Waste Management, Inc. Formed:1979-80
Total Raised, 1983-84: $138,076
Total Raised, 1987-88: $653,361
Difference: $515,285 = 373.19% Rank: 31

Texas Air Corp. Formed:1979-80
Total Raised, 1981-82: $53,560
Total Raised, 1985-86: $252,847
Difference: $199,287 = 372.08% Rank: 32

Federal Express Corporation Formed:1983-84
Total Raised, 1985-86: $334,334
Total Raised, 1989-90: $1,561,744
Difference: $1,227,410 = 367.12% Rank: 33

Drexel Burnham Lambert Group, Inc. Formed:1981-82
Total Raised, 1983-84: $66,844
Total Raised, 1987-88: $310,188
Difference: $243,344 = 364.05% Rank: 34

Dow Chemical, USA - HQ Formed:1979-80
Total Raised, 1995-96: $60,290
Total Raised, 1999-00: $279,618
Difference: $219,328 = 363.79% Rank: 35

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General Telephone & Electronics Corp. Formed:1979-80
Total Raised, 1987-88: $169,871
Total Raised, 1991-92: $779,782
Difference: $609,911 = 359.04% Rank: 36

NationsBank Formed:1979-80
Total Raised, 1987-88: $238,405
Total Raised, 1991-92: $1,094,012
Difference: $855,607 = 358.89% Rank: 37

CSX Corp. - Jeffboat Formed:1981-82
Total Raised, 1995-96: $66,789
Total Raised, 1999-00: $303,763
Difference: $236,974 = 354.81% Rank: 38

Sears Roebuck & Co. (Allstate) Formed:1979-80
Total Raised, 1981-82: $50,277
Total Raised, 1985-86: $223,313
Difference: $173,036 = 344.17% Rank: 39

First Union Corporation Formed:1983-84
Total Raised, 1995-96: $119,980
Total Raised, 1999-00: $525,262
Difference: $405,282 = 337.79% Rank: 40

Brown & Williamson Tobacco Corp. Formed:1979-80
Total Raised, 1991-92: $117,271
Total Raised, 1995-96: $512,562
Difference: $395,291 = 337.07% Rank: 41

Coca-Cola Enterprises, Inc. Formed:1991-92
Total Raised, 1993=94: $54,312
Total Raised, 1997-98: $232,861
Difference: $178,549 = 328.75% Rank: 42

Mutual of Omaha Insurance Company Formed:1979-80
Total Raised, 1989-90: $74,612
Total Raised, 1993=94: $319,846
Difference: $245,234 = 328.68% Rank: 43

Chase Manhattan Bank Formed:1979-80
Total Raised, 1983-84: $64,813
Total Raised, 1987-88: $274,828
Difference: $210,015 = 324.03% Rank: 44

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Raytheon Company Formed:1979-80
Total Raised, 1979-80: $54,158
Total Raised, 1983-84: $228,899
Difference: $174,741 = 322.65% Rank: 45

Manufacturers Hanover Corporation Formed:1979-80
Total Raised, 1979-80: $69,178
Total Raised, 1983-84: $291,068
Difference: $221,890 = 320.75% Rank: 46

Tenneco, Inc. Formed:1979-80
Total Raised, 1991-92: $208,019
Total Raised, 1995-96: $866,590
Difference: $658,571 = 316.59% Rank: 47

Loral Systems Group Formed:1985-86
Total Raised, 1989-90: $86,215
Total Raised, 1993=94: $358,895
Difference: $272,680 = 316.28% Rank: 48

Koch Industries, Inc. Formed:1989-90
Total Raised, 1993=94: $202,392
Total Raised, 1997-98: $831,184
Difference: $628,792 = 310.68% Rank: 49

Koch Industries, Inc. Formed:1989-90
Total Raised, 1991-92: $104,401
Total Raised, 1995-96: $428,074
Difference: $323,673 = 310.03% Rank: 50

Bellsouth Corporation Formed:1983-84
Total Raised, 1985-86: $70,383
Total Raised, 1989-90: $287,836
Difference: $217,453 = 308.96% Rank: 51

Rockwell International Corporation Formed:1979-80
Total Raised, 1979-80: $123,700
Total Raised, 1983-84: $497,473
Difference: $373,773 = 302.16% Rank: 52

Safari Club International Formed:1979-80
Total Raised, 1993=94: $94,149
Total Raised, 1997-98: $378,078
Difference: $283,929 = 301.57% Rank: 53

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RJR Nabisco, Inc. Formed:1979-80
Total Raised, 1981-82: $64,199
Total Raised, 1985-86: $256,498
Difference: $192,299 = 299.54% Rank: 54

American Information Technologies Corp. Formed:1983-84
Total Raised, 1985-86: $58,487
Total Raised, 1989-90: $233,266
Difference: $174,779 = 298.83% Rank: 55

Southern Company Formed:1981-82
Total Raised, 1995-96: $125,656
Total Raised, 1999-00: $497,118
Difference: $371,462 = 295.62% Rank: 56

Lucent Technologies, Inc. Formed:1995-96
Total Raised, 1995-96: $87,568
Total Raised, 1999-00: $343,462
Difference: $255,894 = 292.22% Rank: 57

Fluor Corporation Formed:1979-80
Total Raised, 1985-86: $126,081
Total Raised, 1989-90: $494,417
Difference: $368,336 = 292.14% Rank: 58

Central & South West Services, Inc. Formed:1979-80
Total Raised, 1993=94: $57,841
Total Raised, 1997-98: $226,201
Difference: $168,360 = 291.07% Rank: 59

HSBC Americas / Marine Midland Banks Formed:1981-82
Total Raised, 1983-84: $52,071
Total Raised, 1987-88: $200,106
Difference: $148,035 = 284.29% Rank: 60

Jacobs Engineering Group, Inc. Formed:1981-82
Total Raised, 1995-96: $127,472
Total Raised, 1999-00: $488,875
Difference: $361,403 = 283.52% Rank: 61

Banc One Corporation Formed:1979-80
Total Raised, 1989-90: $270,704
Total Raised, 1993=94: $1,037,361
Difference: $766,657 = 283.21% Rank: 62

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Archer-Daniels-Midland Company Formed:1979-80
Total Raised, 1979-80: $50,369
Total Raised, 1983-84: $192,426
Difference: $142,057 = 282.03% Rank: 63

Aetna Life and Casualty Company Formed:1983-84
Total Raised, 1983-84: $88,329
Total Raised, 1987-88: $333,008
Difference: $244,679 = 277.01% Rank: 64

Outback Steakhouse, Inc. Formed:1991-92
Total Raised, 1993=94: $230,022
Total Raised, 1997-98: $865,042
Difference: $635,020 = 276.07% Rank: 65

Lockheed Corporation Formed:1979-80
Total Raised, 1979-80: $136,127
Total Raised, 1983-84: $511,131
Difference: $375,004 = 275.48% Rank: 66

Duke Power Company Formed:1979-80
Total Raised, 1995-96: $69,970
Total Raised, 1999-00: $261,562
Difference: $191,592 = 273.82% Rank: 67

TRW, Inc. Formed:1979-80
Total Raised, 1979-80: $69,121
Total Raised, 1983-84: $256,296
Difference: $187,175 = 270.79% Rank: 68

United Telecommunications, Inc. Formed:1979-80
Total Raised, 1983-84: $66,922
Total Raised, 1987-88: $247,495
Difference: $180,573 = 269.83% Rank: 69

Loral Systems Group Formed:1985-86
Total Raised, 1987-88: $55,311
Total Raised, 1991-92: $202,887
Difference: $147,576 = 266.81% Rank: 70

American General Corporation Formed:1979-80
Total Raised, 1995-96: $182,254
Total Raised, 1999-00: $668,062
Difference: $485,808 = 266.56% Rank: 71

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Phillips Petroleum Company Formed:1979-80
Total Raised, 1983-84: $99,365
Total Raised, 1987-88: $364,141
Difference: $264,776 = 266.47% Rank: 72

Entergy Operations, Inc. Formed:1989-90
Total Raised, 1993=94: $64,650
Total Raised, 1997-98: $236,109
Difference: $171,459 = 265.21% Rank: 73

American Information Technologies Corporation Formed:1979-80
Total Raised, 1983-84: $68,916
Total Raised, 1987-88: $249,574
Difference: $180,658 = 262.14% Rank: 74

Sea-Land Corporation Formed:1979-80
Total Raised, 1987-88: $52,291
Total Raised, 1991-92: $189,284
Difference: $136,993 = 261.98% Rank: 75

First City Bancorporation of Texas, Inc. Formed:1979-80
Total Raised, 1979-80: $85,372
Total Raised, 1983-84: $307,649
Difference: $222,277 = 260.36% Rank: 76

Banc One Corporation Formed:1979-80
Total Raised, 1987-88: $173,949
Total Raised, 1991-92: $622,458
Difference: $448,509 = 257.84% Rank: 77

El Paso Company Formed:1979-80
Total Raised, 1993=94: $74,169
Total Raised, 1997-98: $264,338
Difference: $190,169 = 256.40% Rank: 78

Dow Chemical, USA Formed:1979-80
Total Raised, 1985-86: $77,017
Total Raised, 1989-90: $274,424
Difference: $197,407 = 256.32% Rank: 79

Timken Company Formed:1995-96
Total Raised, 1995-96: $79,717
Total Raised, 1999-00: $277,044
Difference: $197,327 = 247.53% Rank: 80

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Southern Bell Telephone & Telegraph Co. Formed:1979-80
Total Raised, 1981-82: $54,650
Total Raised, 1985-86: $189,822
Difference: $135,172 = 247.34% Rank: 81

National City Corporation Formed:1981-82
Total Raised, 1983-84: $59,921
Total Raised, 1987-88: $207,361
Difference: $147,440 = 246.06% Rank: 82

Wal-Mart Stores, Inc. Formed:1979-80
Total Raised, 1989-90: $56,535
Total Raised, 1993=94: $195,579
Difference: $139,044 = 245.94% Rank: 83

Eastern Airlines, Inc. Formed:1979-80
Total Raised, 1983-84: $70,676
Total Raised, 1987-88: $243,529
Difference: $172,853 = 244.57% Rank: 84

Heublein, Inc. Formed:1979-80
Total Raised, 1985-86: $52,292
Total Raised, 1989-90: $178,944
Difference: $126,652 = 242.20% Rank: 85

Salomon Brothers, Inc. Formed:1981-82
Total Raised, 1981-82: $106,250
Total Raised, 1985-86: $363,500
Difference: $257,250 = 242.12% Rank: 86

First Bank System, Inc. Formed:1979-80
Total Raised, 1995-96: $85,349
Total Raised, 1999-00: $290,311
Difference: $204,962 = 240.15% Rank: 87

Goodyear Tire & Rubber Company Formed:1979-80
Total Raised, 1993=94: $54,504
Total Raised, 1997-98: $185,093
Difference: $130,589 = 239.60% Rank: 88

North Carolina National Bank Corp. Formed:1979-80
Total Raised, 1979-80: $79,627
Total Raised, 1983-84: $269,718
Difference: $190,091 = 238.73% Rank: 89

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Caterpillar Tractor Company Formed:1981-82
Total Raised, 1985-86: $65,232
Total Raised, 1989-90: $219,844
Difference: $154,612 = 237.02% Rank: 90

Lehman Brothers Kuhn Loec, Inc. Formed:1979-80
Total Raised, 1979-80: $51,400
Total Raised, 1983-84: $171,973
Difference: $120,573 = 234.58% Rank: 91

Northrop Corporation Formed:1979-80
Total Raised, 1979-80: $86,250
Total Raised, 1983-84: $288,361
Difference: $202,111 = 234.33% Rank: 92

GMC Electronic Data Systems Corporation Formed:1979-80
Total Raised, 1987-88: $116,315
Total Raised, 1991-92: $388,257
Difference: $271,942 = 233.80% Rank: 93

Textron, Inc. Formed:1979-80
Total Raised, 1981-82: $116,552
Total Raised, 1985-86: $388,852
Difference: $272,300 = 233.63% Rank: 94

Southern Bell Telephone & Telegraph Co. Formed:1979-80
Total Raised, 1987-88: $203,554
Total Raised, 1991-92: $678,024
Difference: $474,470 = 233.09% Rank: 95

United Parcel Service of America, Inc. Formed:1979-80
Total Raised, 1983-84: $272,659
Total Raised, 1987-88: $905,482
Difference: $632,823 = 232.09% Rank: 96

Gun Owners of America (gun control foes) Formed:1991-92
Total Raised, 1995-96: $93,086
Total Raised, 1999-00: $309,050
Difference: $215,964 = 232.00% Rank: 97

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Dun & Bradstreet Corporation Formed:1979-80
Total Raised, 1981-82: $51,577
Total Raised, 1985-86: $169,954
Difference: $118,377 = 229.52% Rank: 98

J. C. Penney Company, Inc. Formed:1979-80
Total Raised, 1981-82: $91,484
Total Raised, 1985-86: $301,185
Difference: $209,701 = 229.22% Rank: 99

United Parcel Service of America, Inc. Formed:1979-80
Total Raised, 1985-86: $567,328
Total Raised, 1989-90: $1,865,785
Difference: $1,298,457 = 228.87% Rank: 100

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data, Jan. 1, 1979 through Dec. 31, 2000.

MTC-00030611_0041

Table 5. Rapid Rises in Corporate PAC Spending, 1979-2002
(After Spending More than $250,000)

Microsoft Corporation				Formed: 1987-88
Total Spent, 1997-98:	$267,500			
Total Spent, 1999-00:	$1,221,730			
Difference:	$954,230	=	356.72%	Rank: 1
Federal Express Corporation				Formed: 1983-84
Total Spent, 1985-86:	$392,441			
Total Spent, 1987-88:	$1,093,998			
Difference:	$701,557	=	178.77%	Rank: 2
Compass Bancshares, Inc.				Formed: 1983-84
Total Spent, 1991-92:	$363,617			
Total Spent, 1993=94:	$974,893			
Difference:	$611,276	=	168.11%	Rank: 3
Metropolitan Life Insurance Company				Formed: 1979-80
Total Spent, 1997-98:	$310,633			
Total Spent, 1999-00:	$815,624			
Difference:	$504,991	=	162.57%	Rank: 4
Bell Atlantic Corp.				Formed: 1983-84
Total Spent, 1995-96:	$388,073			
Total Spent, 1997-98:	$1,006,783			
Difference:	$618,710	=	159.43%	Rank: 5
Planned Parenthood Action Fund, Inc.				Formed: 1995-96
Total Spent, 1997-98:	$359,408			
Total Spent, 1999-00:	$914,501			
Difference:	$555,093	=	154.45%	Rank: 6
RJR Nabisco, Inc.				Formed: 1979-80
Total Spent, 1987-88:	$348,897			
Total Spent, 1989-90:	$872,626			
Difference:	$523,729	=	150.11%	Rank: 7
Southern Bell Telephone & Telegraph Co.				Formed: 1979-80
Total Spent, 1989-90:	$265,096			
Total Spent, 1991-92:	$650,905			
Difference:	$385,809	=	145.54%	Rank: 8

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American Information Technologies Corp. Formed: 1983-84
Total Spent, 1991-92: $518,442
Total Spent, 1993=94: $1,207,881
Difference: $689,439 = 132.98% Rank: 9

Tenneco, Inc. Formed: 1979-80
Total Spent, 1993=94: $380,688
Total Spent, 1995-96: $860,515
Difference: $479,827 = 126.04% Rank: 10

Banc One Corporation Formed: 1979-80
Total Spent, 1991-92: $421,467
Total Spent, 1993=94: $934,434
Difference: $512,967 = 121.71% Rank: 11

American General Corporation Formed: 1979-80
Total Spent, 1997-98: $291,488
Total Spent, 1999-00: $634,510
Difference: $343,022 = 117.68% Rank: 12

Boeing Company Formed: 1981-82
Total Spent, 1995-96: $370,105
Total Spent, 1997-98: $759,495
Difference: $389,390 = 105.21% Rank: 13

MBNA Corporation Formed: 1991-92
Total Spent, 1993=94: $403,796
Total Spent, 1995-96: $825,974
Difference: $422,178 = 104.55% Rank: 14

Compass Bancshares, Inc. Formed: 1983-84
Total Spent, 1995-96: $729,612
Total Spent, 1997-98: $1,468,094
Difference: $738,482 = 101.22% Rank: 15

Southtrust Corporation Formed: 1979-80
Total Spent, 1995-96: $266,593
Total Spent, 1997-98: $530,794
Difference: $264,201 = 99.10% Rank: 16

FirstEnergy Corp. (Ohio Edison) Formed: 1981-82
Total Spent, 1997-98: $253,675
Total Spent, 1999-00: $502,890
Difference: $249,215 = 98.24% Rank: 17

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Koch Industries, Inc. Formed: 1989-90
Total Spent, 1995-96: $428,664
Total Spent, 1997-98: $807,318
Difference: $378,654 = 88.33% Rank: 18

Northrop Corporation Formed: 1979-80
Total Spent, 1993=94: $422,969
Total Spent, 1995-96: $794,880
Difference: $371,911 = 87.93% Rank: 19

J. P. Morgan & Company, Inc. Formed: 1979-80
Total Spent, 1985-86: $262,250
Total Spent, 1987-88: $492,681
Difference: $230,431 = 87.87% Rank: 20

Philip Morris, Inc. Formed: 1979-80
Total Spent, 1983-84: $403,699
Total Spent, 1985-86: $754,949
Difference: $351,250 = 87.01% Rank: 21

Eli Lilly & Company Formed: 1979-80
Total Spent, 1995-96: $375,583
Total Spent, 1997-98: $700,580
Difference: $324,997 = 86.53% Rank: 22

Southwestern Bell Corporation Formed: 1979-80
Total Spent, 1993=94: $365,700
Total Spent, 1995-96: $674,857
Difference: $309,157 = 84.54% Rank: 23

Rockwell International Corporation Formed: 1979-80
Total Spent, 1981-82: $266,688
Total Spent, 1983-84: $490,541
Difference: $223,853 = 83.94% Rank: 24

United Parcel Service of America, Inc. Formed: 1979-80
Total Spent, 1991-92: $1,835,231
Total Spent, 1993=94: $3,350,884
Difference: $1,515,653 = 82.59% Rank: 25

General Telephone & Electronics Corp. Formed: 1979-80
Total Spent, 1989-90: $420,131
Total Spent, 1991-92: $765,805
Difference: $345,674 = 82.28% Rank: 26

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United Parcel Service of America, Inc. Formed: 1979-80
Total Spent, 1985-86: $522,514
Total Spent, 1987-88: $943,815
Difference: $421,301 = 80.63% Rank: 27

Waste Management, Inc. Formed: 1979-80
Total Spent, 1985-86: $341,975
Total Spent, 1987-88: $615,059
Difference: $273,084 = 79.85% Rank: 28

Houston Industries, Inc. Formed: 1979-80
Total Spent, 1983-84: $256,353
Total Spent, 1985-86: $460,684
Difference: $204,331 = 79.71% Rank: 29

Cigna Corporation Formed: 1979-80
Total Spent, 1997-98: $352,512
Total Spent, 1999-00: $624,736
Difference: $272,224 = 77.22% Rank: 30

United Parcel Service of America, Inc. Formed: 1979-80
Total Spent, 1987-88: $943,815
Total Spent, 1989-90: $1,658,366
Difference: $714,551 = 75.71% Rank: 31

Black America's PAC Formed: 1995-96
Total Spent, 1995-96: $1,899,486
Total Spent, 1997-98: $3,337,602
Difference: $1,438,116 = 75.71% Rank: 32

Chase Manhattan Corporation Formed: 1979-80
Total Spent, 1989-90: $274,760
Total Spent, 1991-92: $481,894
Difference: $207,134 = 75.39% Rank: 33

Barnett Banks of Florida, Inc. Formed: 1979-80
Total Spent, 1985-86: $304,230
Total Spent, 1987-88: $532,509
Difference: $228,279 = 75.04% Rank: 34

Bankamerica Corporation Formed: 1981-82
Total Spent, 1993=94: $311,633
Total Spent, 1995-96: $535,516
Difference: $223,883 = 71.84% Rank: 35

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NationsBank Formed: 1979-80
Total Spent, 1997-98: $607,578
Total Spent, 1999-00: $1,041,837
Difference: $434,259 = 71.47% Rank: 36

United Technologies Corporation Formed: 1979-80
Total Spent, 1993=94: $263,300
Total Spent, 1995-96: $450,078
Difference: $186,778 = 70.94% Rank: 37

Southwestern Bell Corporation Formed: 1979-80
Total Spent, 1997-98: $961,990
Total Spent, 1999-00: $1,642,657
Difference: $680,667 = 70.76% Rank: 38

Lockheed Corporation Formed: 1979-80
Total Spent, 1991-92: $422,512
Total Spent, 1993=94: $708,346
Difference: $285,834 = 67.65% Rank: 39

Union Pacific Corporation Formed: 1979-80
Total Spent, 1985-86: $296,938
Total Spent, 1987-88: $495,482
Difference: $198,544 = 66.86% Rank: 40

Household Finance Corporation Formed: 1979-80
Total Spent, 1989-90: $270,795
Total Spent, 1991-92: $444,889
Difference: $174,094 = 64.29% Rank: 41

Sierra Club (environmentalist) Formed: 1979-80
Total Spent, 1997-98: $441,208
Total Spent, 1999-00: $721,429
Difference: $280,221 = 63.51% Rank: 42

Westinghouse Electric Corp. Formed: 1979-80
Total Spent, 1987-88: $264,890
Total Spent, 1989-90: $431,697
Difference: $166,807 = 62.97% Rank: 43

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American Telephone & Telegraph Co. Formed: 1983-84
Total Spent, 1985-86: $1,744,301
Total Spent, 1987-88: $2,841,464
Difference: $1,097,163 = 62.90% Rank: 44

General Motors Corporation Formed: 1979-80
Total Spent, 1993=94: $477,782
Total Spent, 1995-96: $777,521
Difference: $299,739 = 62.74% Rank: 45

Keycorp Formed: 1979-80
Total Spent, 1995-96: $376,200
Total Spent, 1997-98: $611,975
Difference: $235,775 = 62.67% Rank: 46

Union Pacific Corporation Formed: 1979-80
Total Spent, 1989-90: $731,974
Total Spent, 1991-92: $1,188,407
Difference: $456,433 = 62.36% Rank: 47

Sierra Club (environmentalist) Formed: 1979-80
Total Spent, 1987-88: $299,891
Total Spent, 1989-90: $486,795
Difference: $186,904 = 62.32% Rank: 48

Chrysler / Gulfstream Aerospace Corp. Formed: 1979-80
Total Spent, 1993=94: $417,015
Total Spent, 1995-96: $659,369
Difference: $242,354 = 58.12% Rank: 49

Pfizer, Inc. Formed: 1979-80
Total Spent, 1997-98: $536,471
Total Spent, 1999-00: $844,132
Difference: $307,661 = 57.35% Rank: 50

Chase Manhattan Bank Formed: 1979-80
Total Spent, 1989-90: $269,299
Total Spent, 1991-92: $423,632
Difference: $154,333 = 57.31% Rank: 51

Sierra Club (environmentalist) Formed: 1979-80
Total Spent, 1993=94: $431,725
Total Spent, 1995-96: $677,883
Difference: $246,158 = 57.02% Rank: 52

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Banc One Corporation — Formed: 1979-80

Total Spent, 1989-90:	$269,833			
Total Spent, 1991-92:	$421,467			
Difference:	$151,634	=	56.20%	Rank: 53

Raytheon Company — Formed: 1979-80

Total Spent, 1995-96:	$385,863			
Total Spent, 1997-98:	$601,994			
Difference:	$216,131	=	56.01%	Rank: 54

Eli Lilly & Company — Formed: 1979-80

Total Spent, 1997-98:	$700,580			
Total Spent, 1999-00:	$1,089,599			
Difference:	$389,019	=	55.53%	Rank: 55

Chrysler / Gulfstream Aerospace Corp. — Formed: 1979-80

Total Spent, 1995-96:	$659,369			
Total Spent, 1997-98:	$1,021,714			
Difference:	$362,345	=	54.95%	Rank: 56

Amsouth Bancorporation — Formed: 1983-84

Total Spent, 1997-98:	$304,524			
Total Spent, 1999-00:	$470,782			
Difference:	$166,258	=	54.60%	Rank: 57

Glaxo, Inc. — Formed: 1985-86

Total Spent, 1997-98:	$716,634			
Total Spent, 1999-00:	$1,104,801			
Difference:	$388,167	=	54.17%	Rank: 58

Crawford Group / Enterprise Leasing — Formed: 1987-88

Total Spent, 1993=94:	$253,769			
Total Spent, 1995-96:	$391,094			
Difference:	$137,325	=	54.11%	Rank: 59

Associates Corp. (Ford Motor Co.) — Formed: 1989-90

Total Spent, 1995-96:	$342,269			
Total Spent, 1997-98:	$526,937			
Difference:	$184,668	=	53.95%	Rank: 60

Morgan Stanley & Company, Inc. — Formed: 1979-80

Total Spent, 1985-86:	$303,919			
Total Spent, 1987-88:	$465,992			
Difference:	$162,073	=	53.33%	Rank: 61

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Houston Industries, Inc.				Formed: 1979-80
Total Spent, 1995-96:	$470,646			
Total Spent, 1997-98:	$720,544			
Difference:	$249,898	=	53.10%	Rank: 62
Outback Steakhouse, Inc.				Formed: 1991-92
Total Spent, 1997-98:	$636,741			
Total Spent, 1999-00:	$974,275			
Difference:	$337,534	=	53.01%	Rank: 63
Household Finance Corporation				Formed: 1979-80
Total Spent, 1997-98:	$512,016			
Total Spent, 1999-00:	$782,819			
Difference:	$270,803	=	52.89%	Rank: 64
General Motors Corp. / Hughes Aircraft				Formed: 1979-80
Total Spent, 1985-86:	$271,290			
Total Spent, 1987-88:	$412,181			
Difference:	$140,891	=	51.93%	Rank: 65
American Airlines				Formed: 1979-80
Total Spent, 1991-92:	$282,647			
Total Spent, 1993=94:	$426,852			
Difference:	$144,205	=	51.02%	Rank: 66
Cooper Industries, Inc.				Formed: 1979-80
Total Spent, 1989-90:	$264,213			
Total Spent, 1991-92:	$397,960			
Difference:	$133,747	=	50.62%	Rank: 67
Flowers Industries, Inc.				Formed: 1979-80
Total Spent, 1993=94:	$254,819			
Total Spent, 1995-96:	$383,269			
Difference:	$128,450	=	50.41%	Rank: 68

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data, Jan. 1, 1979 through Dec. 31, 2000.

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APPENDIX B: Publication List

The news organizations listed below have published news reports or commentary by Edward Roeder

Daily Newspapers

Albuquerque Journal
Arizona Republic
Arkansas Gazette-Democrat
Atlanta Constitution *
Austin American-Statesman
Baltimore Sun *
Boston Globe *
Chicago Sun-Times *
Chicago Tribune *
Cleveland Plain Dealer
Dallas Morning News
Denver Post
Deseret News
Detroit Free Press*
Detroit News *
Florida Today
Fort Lauderdale News & Sun-Sentinel *
Greensboro News & Record *
Kansas City Star
Los Angeles Times
Louisville Courier-Journal *
Miami Herald *
Nashville Tennessean
New Orleans Times-Picayune
New York Daily News
New York Newsday
New York Times *
Orlando Sentinel *
Philadelphia Inquirer *
Portland Oregonian
Providence Journal
Richmond Times-Dispatch
Sacramento Bee *
San Jose Mercury News
Seattle Post-Intelligencer
Seattle Times *
St. Louis Post-Dispatch *
St. Petersburg Times *
Tampa Tribune
USA Today
Washington Post *
Washington Times
Articles ran on page 1 or led Sunday section

Periodicals

American Banker *
Capital Style
Conservative Digest *
Free Inquiry *
Monthly Business Review *
Ms. *
New Republic *
New Times *
Newsweek
Playboy *
Politics Today *
Rolling Stone *
Saturday Review *
Sierra *
Space Business International *
The Nation *
Time
Village Voice *
Washington Monthly *
Washingtonian *
* Bylined feature magazine articles

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Broadcast

ABC News (TV) *
CBS News (TV) *
CNN *
Canadian Broadcast'g Co. (Radio) *
KABC-TV (Hollywood, CA) *
National Public Radio *
Nightline (ABC News - TV) *
NBC News (TV & Radio)
20-20 (ABC News - TV)
WBAL-TV (Baltimore, MD)
WDIV-TV (Detroit, Mich.) *
WJLA-TV (Washington, DC) *
WJXT-TV (Jacksonville, Fla.) *
WJZ-TV (Baltimore, MD)
WPLG-TV (Miami, Fla.) *
WRC-TV (Washington, DC)
WTVT-TV (Tampa, Fla.) *
WUSA-TV (Washington, DC) *
* Paid on-air appearanc(s)