

CHAPTER III

CAMPAIGN FINANCING IN THE UNITED STATES

A. Campaign Financing

A campaign has an essential role in disseminating information about the presidential candidates to voters. In the United States, it is expensive to communicate to a nation of 100 million voters in 50 states for the 12 or more months that make up the presidential campaign season (U.S. Department of States, 2016). Therefore, to ensure that the information is well-delivered, campaign financing is also important.

1. Regulation

Regulation on campaign financing may vary in each level of government. For the national level, Campaign financing is regulated by the Federal Election Commission (FEC). While state and local law govern the state and local government campaign financing.

FEC is the independent regulatory agency charged with administering and enforcing the federal campaign finance law over the financing of campaigns for the U.S. House, Senate, Presidency and the Vice Presidency (Federal Election Commission, n.d.). In short, FEC has a role in administering public funding, facilitating disclosure, clarifying the law, and enforcing the law.

Federal law dictates how and from whom candidates for president, senator and representative may seek contributions (U.S. Department of States, 2016). Three broad subjects covered by the federal campaign finance law are public disclosure of funds raised and spent to influence federal elections, restrictions on contributions

and expenditures made to influence federal elections, and the public financing of presidential campaigns.

The federal campaign finance law consists of federal election campaign act (FECA) and presidential election campaign fund act. FECA regulates the limitation of sources and amount of funds used to finance federal election, disclosure the receipts (from whom and how much the fund received), and the civil enforcement of FECA provisions. While the presidential election campaign fund act regulates public funding for the presidential election.

2. Source of Funds

Since 1976 until the 2000 elections, all presidential candidates participate in public financing system to pay for their campaigns. Public financing of presidential elections means that qualified presidential candidates receive federal government funds to pay for the valid expenses of their political campaigns in both the primary and general elections (Federal Election Commission, 2017). However, this system has become increasingly unappealing to candidates because the imposed spending limit is considered too low—and less than the amount that major candidates can often raise from private sources (U.S. Department of States, 2016). Therefore, candidates prefer raising money from private entity instead of utilizing public funding.

Private campaign financing refers to funding or free or reduced rate materials and services ("in-kind" contributions) from private donors, such as individuals or companies (USAID, 2014). Individuals include the people that involve in the companies/corporations, and companies itself include domestic and multinational corporations (MNCs).

A candidate for president must establish a campaign organization, called a political committee, and register it with the FEC (U.S. Department of States, 2016). According to the United States Code of Federal Regulations (CFR) political committee described as follows:

- “(4) The term “political committee” means—*
- (A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year; or*
 - (B) any separate segregated fund established under the provisions of section 30118(b) of this title; or*
 - (C) any local committee of a political party which receives contributions aggregating in excess of \$5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) of this section aggregating in excess of \$5,000 during a calendar year, or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year.”*

While the term “contributions” described according to the CFR as follows:

- “(8) (A) The term “contribution” includes—*
- (i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or*

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.”

Political committees have to register first before seeking for contributions, also obliged to report all funds raised to the commission and makes the information available to the public.

3. Contribution Limits and Prohibitions

Candidates can choose whether they will participate in public funding or not. When they choose not to participate, they may raise private contributions subject to the limits and source prohibitions of the law. Contribution limits and the various prohibitions on private contributions are regulated by FECA. Those who can contribute according to the law are individuals, minors, certain limited liability companies (LLCs), and partnerships. Those can give their contributions with certain limits as shown in table 3.1.

Table 3. 1 2012 Contribution Limits

	To each candidate or candidate committee per election	To national party committee per calendar year	To state, district & local party committee per calendar year	To any other political committee per calendar year	Special Limits
Individual may give	\$2,500*	\$30,800*	\$10,000 (combined limit)	\$5,000	\$117,000* overall biennial limit: <ul style="list-style-type: none"> ● \$46,200* to all candidates ● \$70,800* to all PACs & parties
National Party Committee may give	\$5,000	No limit	No limit	\$5,000	\$43,100* to Senate Candidates per campaign
State, District & Local Party Committee may give	\$5,000 (combined limit)	No limit	No limit	\$5,000 (combined limit)	No limit
PAC (multi-candidate)¹ may give	\$5,000	\$15,000	\$5,000 (combined limit)	\$5,000	No limit
PAC (not multi-candidate) may give	\$2,500*	\$30,800*	\$5,000 (combined limit)	\$5,000	No limit
Authorized Campaign Committee may give	\$2,000	No limit	No limit	\$5,000	No limit

Source: Center for Responsive Politics, from <https://www.opensecrets.org/overview/limits.php?cycle=2012>, retrieved January 5th 2018

¹ A multicandidate committee is a political committee with more than 50 contributors which has been registered for at least 6 months and, with the exception of state party committees, has made contributions to 5 or more candidates for federal office

While those who are prohibited are corporations (including nonprofit corporations), labor organizations, national banks, federal government contractors, foreign nationals, and contributions in the name of another.

The fund taken from the general treasury of a corporation, labor organization, national banks, and federal contractors are strictly prohibited. Contributions may, however, be made from separate segregated funds (also called political action committees or PACs) established by corporations, labor organizations, national banks, and incorporated membership organizations (Federal Election Commission, 2017).

B. MNCs' Campaign Financing

The contribution of MNCs come in many forms. According to Meier and Schier, MNC in the simplest definition is an enterprise which possesses at least one unit of production in a foreign country (Steinbockova, 2007). In more strategic definition, Meier and Schier define MNC as an organization owing or controlling enterprises or physical and financial assets in at least two countries of a global economy and opting for a multi-domestic strategy founded on social-economic differences of these countries (as a reply to specific local demand) (Steinbockova, 2007). MNCs in this research refers to the American-based MNCs and Foreign-based MNCs that operates in the United States.

In a fundamental principle, MNCs are prohibited from financing campaign in the United States elections. The prohibition has been regulated in the Code of Federal Regulations (CFR) title 11 part 114.2 about Prohibition on Contributions, Expenditures, and Electioneering Communications. However, there are many ways for multinational corporations to influence the election. Corporations and unions are not allowed to contribute

directly from corporate or union funds, but they may form political action committees (PACs) to seek contributions from managers and stockholders and their families or union workers and their families (Dye & Zeigler, 2009). MNCs find certain loopholes to funnel their contributions, which are through American individual from those corporations or the PACs. Note that in this research, MNCs contribution refers to the contribution from its members or PACs.

1. Political Action Committees (PACs)

Political action committees (PACs), was firstly created in the 1940s and organized under federal campaign laws from the 1970s, which allow companies to gather, bundle and forward personal contributions from employees to federal candidates (USSIF, 2015). According to the FECA and FEC regulations, there are two types of PACs, which are Separate Segregated Funds (SSFs) and nonconnected PACs.

SSFs are PACs that have a connection with certain organizations such as corporations, labor unions, membership organizations, or trade association. These organizations called a connected organization as defined in the CFR as follows:

§ 100.6 Connected organization (2 U.S.C. 431(7)).

(a) Connected organization means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee. A connected organization may be a corporation (including a corporation without capital stock), a labor organization, a membership organization, a cooperative or a trade association.

(b) For purposes of 11 CFR 100.6, organizations which are members of the entity (such as corporate

members of a trade association) which establishes, administers, or financially supports a political committee are not organizations which directly or indirectly establish, administer or financially support that political committee.

(c) For purposes of 11 CFR 100.6, the term financially supports does not include contributions to the political committee, but does include the payment of establishment, administration and solicitation costs of such committee.

According to the 11 CFR 114.5, these groups can solicit a contribution to a federal candidate by establishing and administering SSFs. SSFs can make contributions to candidates and make expenditures that are coordinated with candidates. The connected organization may use its general treasury funds to pay the establishment, administration, and fundraising costs for the SSF. 114.5(b) (Information Division, 2017). However, the contribution may not be taken from the general treasury. Instead, SSFs can solicit a contribution from its member. An SSF may solicit only a limited class of individuals who have specific relationships with the connected organization (i.e., stockholders or members and certain employees of the connected organization and their families) (Information Division, 2008).

In contrast with the SSFs, nonconnected PACs are not connected nor sponsored by any of those organizations. Although an organization may spend funds to establish or support a nonconnected PAC, these expenditures are considered contributions to the PAC and are subject to the dollar limits and other requirements of the Act (FECA) (Federal Election Commission, 2008). There are three types of nonconnected PACs, which are traditional

nonconnected PACs (which will be addressed as nonconnected PACs), SuperPACs, and Hybrid PACs.

Nonconnected PACs are free to solicit contributions from the general public who may lawfully contribute in connection with a federal election. As they have no connected sponsors, nonconnected PACs have to use the contributions it raises to pay for its establishment and administration. However, a nonconnected committee may nonetheless receive limited financial and administrative support from a sponsoring organization that is not a corporation or a labor organization, such as a partnership or an unincorporated association (Information Division, 2008).

While SuperPACs (also called Independent expenditure-only political committees) are committees that may receive unlimited contributions from individuals, corporations, labor unions and other political action committees for financing independent-expenditures and other independent political activity (Federal Election Commission, n.d.). Since the federal court decision on *Citizens United vs. Federal Election Commission* in 2010, MNC can now contribute an unlimited amount of money through SuperPACs. A SuperPAC is not allowed to make contributions to candidates or political parties but may engage in unlimited spending, as long as the activities are carried out independently of any particular campaign (Ballington, et al., 2014). These groups can take on some of the duties traditionally handled by a campaign, such as organizing town hall meetings or doing voter outreach (The Center for Responsive Politics, 2017).

Hybrid PACs is a PAC with non-contribution accounts. It solicits and accepts unlimited contributions from individuals, corporations, labor organizations and other

political committees to a segregated bank account for financing independent expenditures, other ads that refer to a federal candidate, and generic voter drives in federal elections, while maintaining a separate bank account, subject to all the statutory amount limitations and source prohibitions, that is permitted to make contributions to federal candidates (Federal Election Commission, n.d.).

2. Individual Contributions

An individual can contribute to campaign financing to a candidate directly and indirectly. Directly, individual can use gathering opportunities, or donate through candidate committee's official website. An individual can also give their contributions through PACs and National Party Committee. There are two types of individual contributions according to the number of contributions they donated. Small individual contributions refer to donations from individuals giving \$200 or less, while large contributions refer to donations above \$200.

C. Barack Obama's Campaign Financing

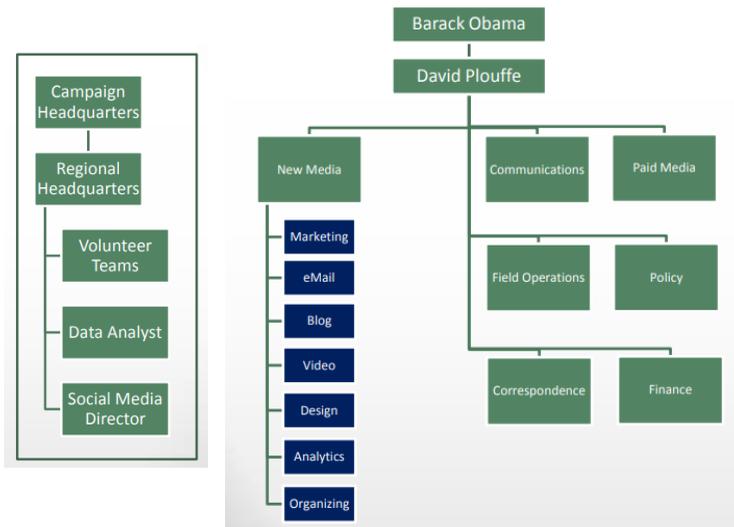
Barack Obama was the 44th president of the United States elected in the 2008 election with the slogan "Yes We Can". In 2012, he and his vice president Joe Biden ran in the reelection for the second term. In his bid for reelection, Obama was using the campaign slogan "Forward", trying to highlight his accomplishments and arguing that he needed a second term to continue them (The Center for Responsive Politics, 2013).

A campaign has a vital role in the victory of a presidential candidate. The campaign organized by the campaign committees. The campaign committee is an authorized committee as defined in section 431(5) of title 2 of the United States Code as follows:

“(6) The term "authorized committee" means the principal campaign committee or any other political committee authorized by a candidate under section 30102(e)(1) of this title to receive contributions or make expenditures on behalf of such candidate.”

Obama's campaign headquarters was in Chicago under the name Obama for America (OFA). It then had its regional headquarters which overseen volunteer teams, data analyst, and social media director. Campaign committee led by a campaign manager. It recruited several key members of the former campaign committee such as Jim Messina that was being the campaign manager for the 2012 campaign committee, replacing David Plouffe as the 2008 campaign manager. The primary structure of 2012 campaign committee was not much different with the first campaign committee in 2008. Diagram 3.1 draws the structure of Obama Campaign Committee in 2008.

Diagram 3. 1 Organization Structure of Barack Obama’s Campaign Committee



Source: Mala Sarat Chandra, September 18th 2013, from <https://www.slideshare.net/Milady123/obama-2012-social-media-3-social-media-case-studies-obama-2008-2012-social-media>, retrieved January 30th 2018

In the campaign, besides introducing himself/herself, a candidate should be able to disseminate their created plan. This plan is about how a candidate will govern America when he/she elected as a president. Barack Obama brought a campaign plan called “The New Economic Patriotism: A Plan for Jobs & Middle-Class Security.” The plan was broken up into seven different parts, focusing on topics that include manufacturing, energy, small businesses, education, taxes and the deficit, healthcare, and Medicare and Social Security (Business Insider, 2012).

Besides the candidate campaign committee, there are also national party committee and SuperPACs. His national party committee was the Democratic National Committee (DNC).

The DNC solicited contributions and organized the campaign for him. It received contributions from individuals and PACs. Some contributions were spent to organize the campaign, and some others were sent to candidate's campaign committee.

He also had some SuperPACs to organize the campaign independently in favor of him and against his major opponent, Mitt Romney. Among the SuperPACs are the 1911 United, Black Men Vote, Independent Source, Jewish Council for Education & Research, LetOurPresidentLead.com, Local Voices, Priorities USA Action, Texans for America's Future (The Center for Responsive Politics, 2013). This research will focus on the Priorities USA Action as Barack Obama's primary SuperPACs. Priorities USA engaged with citizens at the local, state, and national level, meeting them where they live, work and worship.

Barack Obama solicited contribution through a personal approach, digital fundraising, and fundraising event, such as fundraising dinner. Personal approach refers to the activity done directly by Barack Obama, such as making a phone call to a very specific contributor. In digital fundraising, the Obama team raised about \$690 million digitally in 2012 (Scherer, 2012). It included all contributions that were given electronically, such as email, social media, mobile and the website, and some donations that were generated by high-dollar fundraisers that logged through the website (Scherer, 2012). While fundraising event means that Barack Obama had attended or threw a fundraising event.

In fundraising event, fundraiser conducted the event in the form of dinner, reception, parties, or other formal and informal meeting in every state. By August 2012, Barack Obama had attended 203 fundraising events for his re-election campaign since it was officially launched in April

2011 (Kroll, 2012). It means that Barack Obama was prepared to attend a fundraising event in every 60 hours over the campaign period. It also indicated that until the election day, he had been succeed to attend more than 203 fundraising events.

Even in Sunday, August 12th 2012, Barack Obama succeeded to raise money by attending five different fundraising events resulting to \$ 6.5 million in total haul (Kroll, 2012). He went to a "small roundtable" with a \$ 40.000-a-head entry price, a reception for young supporters who paid \$ 51 to get in, a fundraiser-cum-birthday-party at his Chicago home with a five-figure entry free, and two more private events in the evening (Kroll, 2012).