

Who bankrolls the Illinois Supreme Court?

By **Robert A. Clifford**

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I and several other lawyers across Illinois contributed hundreds of thousands of dollars to the organization Campaign for 2016 to educate the public about why Illinois Supreme Court Justice Lloyd Karmeier should not have been retained in last month's general election.

The voters in the 5th District in southern Illinois retained him by a slim margin. He needed a 60 percent approval vote and got 60.7 percent.

Campaign for 2016 was set up to give important information to voters so they could make an informed decision about a member of the state's highest court. Karmeier's complete judicial decision record mattered to every voter.

The critics of Campaign for 2016 called it an attempt to buy justice and retaliate against a judge who has failed to disqualify himself from cases involving his largest campaign donors. The critics framed the election as a fight between insurance companies and business interests on one side and plaintiff trial lawyers on the other.

I readily joined this battle because consumers' rights are in jeopardy every time Karmeier votes on an issue that could affect the interests of those who helped to elect him.

Citizens in Illinois are entitled to know who secretly contributed nearly \$6 million to elect him in 2004 and then to retain him.

My contributions to Campaign for 2016 are public record. The sources of all the contributions to Campaign for 2016 were publicly reported. Those disclosures are in stark contrast to the deliberate cloak of secrecy around those who bankrolled Karmeier's election in 2004 and his retention this year.

Insurance companies and large corporations have funneled money through organizations such as the U.S. Chamber of Commerce so that the specific identities of the donors remain anonymous. Voters can't find out who funneled money to the organizations for those purposes.

How can voters make an informed decision about who should be on the Illinois courts if they don't have all of the facts?

This so-called "dark money" has become a large and troubling factor in U.S. elections. The Center For Responsive Politics reported that nearly \$170 million was secretly spent on 2014 congressional elections alone.

Insurance companies, big business and the U.S. Chamber of Commerce don't want it to be known who exactly is bankrolling judicial elections in Illinois and around the country. They don't want the judges they have helped elect feel compelled to disqualify themselves from court decisions that affect their companies' bottom line. They want to preserve the "wink and a nod" understanding of philosophic or ideological expectations.

That's just what "dark money" is all about. Judges decide on their own whether to recuse themselves from cases in which they might have a conflict of interest. There is no recourse, even if that decision appears to stretch the law and a conflict is evident.

Some legal experts argue that every judge must recuse himself or herself from any case involving a campaign donor. That does not always occur, but it should mean that disclosure of the identities of who donates to each judge's campaign is automatic. That's necessary to preserve the integrity of the legal system.

It is also necessary that parties who appear before a judge know if the opponent has a history of donating to the judge. If the donation is sizable enough, that may smack of an inability to be objective in a court ruling.

Money indisputably is a part of the election process. Illinois is one of 21 states that elect judges to their highest court. Another 17 states initially appoint judges but hold elections to determine whether they remain on the court. It has been suggested that Illinois adopt a system in which the governor appoints judges based on the recommendations of a commission. But that's questionable, too, given how many of Illinois' governors have served time in federal penitentiaries for corruption.

The 2014 election is over, but the subject of dark money needs to be aired in public. We can't tolerate even the slightest appearance of judicial impropriety or favoritism. Voters should demand to know who is behind the dark money in judicial elections. They should demand that all judges take a "No Dark Money Pledge" and that the legislature require full reporting of all spending by and on behalf of candidates.

Allowing donors to hide their identities compromises the integrity and independence of the judiciary. If judges in Illinois are going to be elected, as mandated by the state constitution, then transparency in election funding is a necessity. It's the only way for voters to make an informed decision.

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