

Attack of the Super PACs!

By Michael Scherer

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At the moment, Mitt Romney's worst nightmare is an earnest former aide to Newt Gingrich named Rick Tyler, who sits on a \$5 million pile of cash that he plans to turn into a negative ad campaign aimed at the former Massachusetts governor.

Tyler runs Gingrich's super PAC--a theoretically independent committee of affluent Newtniks who have been working since last month to help the former House Speaker win the GOP nomination. Arriving just in time for the 2012 race, thanks to a landmark Supreme Court decision, super PACs are outraising and outspending the campaigns, supposedly without any coordination with the candidates.

Even Tyler finds this situation absurd.

Super PACs, he admits, are "a horrible abomination for a freedom-loving people in a constitutional republic." So are campaign-finance rules that allow his organization, Winning Our Future, to purchase an anticipated \$3.4 million in South Carolina television time in the coming weeks to cast Romney as a corporate raider who profited from firing people. Doing this while maintaining a measure of independence from Gingrich, as the rules demand, requires what Tyler calls "a big shell game."

The game works like this. The Supreme Court says unlimited campaign contributions from corporations, unions and billionaires are potentially corrupting. This is why casino king Sheldon Adelson, owner of the Venetian and a longtime Gingrich friend, is allowed to give only \$2,500 to Gingrich's 2012 primary campaign. But a series of court rulings in 2010 created another option: Adelson can write a seven-figure check to Tyler, Gingrich's ally and friend, who will spend the money as Gingrich wants it spent. The catch? Tyler, who worked for Gingrich a few months ago and still considers him "like family," is barred from speaking with his candidate or the campaign directly about the ads or his spending strategy.

But this is hardly an impediment. "I follow my lead from Newt Gingrich," Tyler explains. "I watch what he says on TV. I read about him in the newspaper." A few weeks ago, when Gingrich was running a positive campaign in Iowa, Winning Our Future spent hundreds of thousands of dollars on largely positive ads. But when Gingrich signaled a new negative tone, Tyler's group pivoted too, first recirculating an old 2008 ad attacking Romney and later purchasing a short documentary about the underbelly of Romney's business success, called King of Bain: When Mitt Romney Came to Town.

And then Gingrich seemed to endorse those purchases in public. Asked in a recent debate to demand that Tyler stop the anti-Romney campaign, the candidate dodged. "I hope that it's totally accurate," Gingrich says instead of the movie, "and then people can watch the 27 minutes of his career at Bain and decide for themselves."

The new rules have turned presidential politics into a house of mirrors: while most people still contribute up to \$2,500 to campaigns directly, the nation's richest people and corporations now have an outsize way to help candidates by funneling their money through

new shadowy organizations that operate out of lobbying firms or post-office boxes and often identify their donors only after the votes have been counted. (The Lawrenceville, Ga., mailing address for Winning Our Future also serves as a mail drop for companies that market skin creams, house painters and wall coverings.)

Not since before the post-Watergate reforms of the 1970s have wealthy individuals, unions and corporations had so much freedom to affect elections with large sums of money. Old rules that prevented these outside groups from directly advocating the election or defeat of a candidate as they wished are simply no longer in effect. "More special-interest contributions are coming in this election than in any previous election in this nation's history," explains Paul Ryan, a lawyer for the Campaign Legal Center, which supports stricter regulation of money in politics.

Gingrich isn't the only one to benefit; all of the candidates have super PACs, each distinguished by an unobjectionable-sounding, vaguely patriotic name. There are Make Us Great Again (Rick Perry); Red, White and Blue (Rick Santorum); and Our Destiny (Jon Huntsman). A group called Restore Our Future, run by former Romney aides out of Clark Hill, a Washington law and lobbying firm, outspent the Romney campaign on television in Iowa with a slew of biting attacks against Gingrich. The group is poised to do the same in South Carolina. Rather than keep his distance, Romney has legally appeared at fundraisers for the group, and he has effectively endorsed its efforts, which so far have consisted almost entirely of negative ads targeting Gingrich. "I know the people there," Romney said in a recent radio interview. "Of course, I helped raise money for it." When asked by a New Hampshire voter about a \$1 million donation given to the group by an old Romney friend, the candidate mischaracterized it as a donation to his campaign. "He gave to me," Romney said. "He's given to me before."

Romney's confusion is easy to explain. The Federal Election Commission rules that are supposed to ensure the independence of outside groups are so narrowly drawn as to border on meaningless. For instance, under the law, Romney is barred from asking for money in excess of \$5,000 for Restore Our Future, but he can speak at a fundraiser for the group and then stand next to a former aide who asks for a \$1 million check. "The legal definition of coordination," says Ryan, "is completely divorced from reality." And there is little to restrict advisers from floating between a campaign and a super PAC. Bill Burton, a former White House aide who was a spokesman for Barack Obama's 2008 campaign, has established a pro-Obama independent group for the general election that is expected to raise as much as \$100 million this year. The Perry effort is led by Mike Toomey, a longtime adviser who owns land in New Hampshire with Perry's campaign strategist David Carney and whose offices are in Austin across Congress Street from the Perry campaign. Last summer, Fred Davis, the lead adman for the Huntsman campaign, left it to join the Huntsman super PAC. The first ad he cut at his new job echoed the central themes of the Huntsman candidacy and even cited the same favorable Wall Street Journal editorial that Huntsman often cites. The close ties between candidates and groups taking million-dollar donations in their names are now so taken for granted that no one even tries to hide them. Officials from both the Gingrich and the Romney efforts have admitted that their super-PAC proxy armies are gearing up for a probable winner-take-all showdown in South Carolina. And while some campaign aides grumble that they would rather be in control of all the funds, there is no doubt that they welcome the extra help in the costliest part of campaigns--television advertising.

This domination of the political landscape by super PACs has left the Supreme Court's decision that created them looking a bit naive. The Justices ruled at the time that "independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption." The court reasoned that this was the case because the candidates' independent groups were actually independent, thus alleviating "the danger that expenditures will be given as a quid pro quo for improper commitments."

Even the candidates have dispensed with paying homage to this argument. Instead, it's commonplace to complain that the other fellow is calling the shots at his super PAC, even if he is following the letter of the law. In early January, Gingrich described Romney as the CEO of Restore Our Future: "This is a man whose staff created the PAC. His millionaire friends fund the PAC. He pretends he has nothing to do with the PAC. It's baloney." Romney responded by pointing out that he had no direct input on the ads.

The situation is such a mess that many involved argue that Congress should just drop the pretense of independence and allow campaigns to accept unlimited checks directly. "What I will grouse about is the complete absurdity of a law that allows us to campaign to help one candidate but prohibits us to talk to our candidate," says Whit Ayres, a veteran Republican pollster who is running the pro-Huntsman effort, which spent \$2 million on ads in New Hampshire.

But that will be a fight for another campaign cycle. For now, Tyler, the former Gingrich aide, is the one with the biggest pile of cash heading into South Carolina. "The money in the super PACs is so dominant that the candidates themselves hardly have a chance to break through," he says. And when candidates have friends like super PACs, they hardly need to.