



THE HUMANE SOCIETY
OF THE UNITED STATES

Investigative Report: CCF's Richard Berman

by
Ian T. Shearn

In 2008, the **Center for Consumer Freedom**
received **\$1.52 million** in contributions

\$1.41 million—or 92.7%—went to **Richard Berman**
and his PR company, **Berman & Company**



Editor's Note: Millionaire PR operative and lobbyist Richard Berman and his shadowy web of corporate-front organizations rake in large sums of money in attacking public interest groups, including The Humane Society of the United States.

The HSUS hired independent journalist Ian T. Shearn to write an investigative report about Berman and the workings of his groups. Shearn, as statehouse Bureau Chief of the Newark Star-Ledger, led a team of reporters that won a 2005 Pulitzer Prize for the newspaper in recognition of its coverage of the resignation of then-Gov. James McGreevey. Shearn's distinguished career spanned 29 years as reporter and editor. He is now a freelance writer based in Hillsborough, N.J.

Shearn's contract required him to identify himself in all encounters as preparing a report for The HSUS. The final product, however, represents his independent reporting and judgment.

If charity does indeed begin at home, in the case of Richard Berman, it starts in a \$3 million, 8,800-square-foot mansion he shares with his second wife in McLean, Va. One of his first decisions in a day of many is whether to drive the Bentley or the Ferrari to work. On this particular spring morning, he goes with the Bentley.

Capable of zero to 60 in 4.4 seconds, the commute to his Washington D.C. office is no doubt enjoyable, even if the car's 500-plus horsepower is bridled in congestion. He glides into his parking garage in the K Street corridor, gently backs the Bentley into a reserved spot and exits the car, clutching a bundle of newspapers under his arm.

He walks with a quick, determined gait to the elevator that takes him to his office, Berman and Co., a public relations/lobbying firm that consumes the entire eighth floor. According to one visitor, the bustling office has all the appearances of a political boiler-room operation, a roomful of 25 to 30 young adults fervently attending to their computers and phones. The walls are covered with ornate, mill-worked wood, and there is a constant stream of visitors.

But this is no ordinary PR operation. This is where white-knuckle lobbying and media buys merge with a handful of public charities Berman has created to spin and cajole public perception on a variety of issues. But for the most part, he attacks and intimidates those with contrary views, and under the banner of the public good serves the agendas of corporate America.

His targets are mostly activist charities that criticize or have conflicting views with big business. Organizations like The Humane Society of the United States, the Centers for Disease Control and Prevention, Mothers Against Drunk Driving, the Center for Science in the Public Interest. He also takes direct aim against labor unions and any politician who lines up on their side. His strategy: Shoot the messenger.



Richard Berman's home in Virginia

When it comes to debate over such issues as animal welfare, blood-alcohol levels, minimum wage, union organizing, trans fats, sugar or mercury in fish, Berman is on the attack. And his advocacy is always in step with his client list.

His Rolodex contains a far-reaching array of big-business interests in the tobacco, alcohol, restaurant and food industries. His political alliances run the gamut, from Newt Gingrich to George McGovern. But his political contributions show he prefers

Republicans. His aggressive, shrill media campaigns have earned him the nickname Dr. Evil. It's a moniker he cherishes. Berman loves a fistfight, and will gladly cross the street to engage.

“Richard Berman is a professional antagonist, trying to discredit people who are doing good in the world,” said Wayne Pacelle, President and CEO of The Humane Society of the United States. “He does not seek sensible discourse; he simply sees HSUS as a pathway for enrichment. ... This guy has developed a cottage industry attacking public interest organizations.”

Advocacy is Washington D.C.'s biggest business. And in a city crammed with PR/lobbying firms, charities and think tanks, Berman has emerged as one of its most controversial players, essentially because of the business model he has adopted and refined. It is commonplace for lawyers, lobbyists and PR types to labor on behalf of their clients' bottom line, but real money, Berman has discovered, can come from charity.

It works like this:

Berman identifies issues that threaten the profit margins of the food and beverage industries—many of them clients—and establishes a tax-exempt public charity to raise money. In most cases, he appoints himself as executive director and appoints a board, often with ties to the food and beverage industries. The charity established, he raises millions of dollars each year and then hires himself and his for-profit PR firm to do research, run ad campaigns and start websites. His annual management fees run in the millions.

For example: Berman created a 501(c)(3) charity, the Center for Consumer Freedom (CCF) in 2002 to “educate the public on food and beverage issues.” Berman generated

more than \$20 million in contributions to CCF through 2008 (he has yet to file his 2009 tax documents). Nearly half of that—more than \$9 million—was paid to Berman and Co., of which Berman is the president and sole owner, or to Berman directly, in management fees and expenses, according to an analysis of his IRS tax returns.

In 2008, his charity reported \$1.5 million in revenue, mostly from donations; Berman and Co. and Berman were paid nearly \$1.4 million.

And that is just one of his charities. Berman and his company received at least an additional \$17 million in management fees and compensation since 1997, according to a review of tax returns for three of his other charities. In short, the Berman public charity/private sector business model, which he controls from both ends, has made him a wealthy man.

Berman declined to be interviewed for this story, but during an interview with MSNBC's Rachel Maddow in February, he offered this about the many websites he has created to push his message:

“I start a lot of these myself because I believe in them. Then I go to people and I say, ‘Listen, this is what I’m doing, and if your beliefs are consistent with mine, will you help me get this thing out?’ ... I don’t say things I don’t believe.”

And when asked who those people are who decide to donate to his charities, Berman simply says, it’s none of your business. MSNBC’s Maddow tried. CBS’ Morley Safer tried. But Berman is right: Public charities do not have to disclose the identities of their donors, and virtually none of them do.

Genesis

But a growing suspicion, inside Washington and beyond, is that Berman is simply funneling millions from anonymous corporate donors and trade associations into his own pocket. That is the underlying premise in a November 2004 IRS complaint filed by Melanie Sloan, the executive director of Citizens for Responsibility and Ethics in Washington.

Berman’s CCF, Sloan wrote in her 23-page letter, was “created and operated expressly for the purpose of trying to protect the interests of the tobacco, alcohol and chain restaurant industries, all within the guise of ‘consumer freedom.’”

CCF, originally called the Guest Choice Network, was incorporated in 1999 with a \$600,000 donation from the Phillip Morris tobacco company. Over the ensuing years, Phillip Morris would contribute an additional \$2.3 million. And while Berman has remained steadfast in keeping his donors private, the first breach in the wall came several years ago, when an unnamed former Berman employee publicly revealed a list of corporate funders for 2001 and 2002, which included the likes of Monsanto, Tyson Foods, Coca-Cola and Wendy’s International.

With friends from the Miller Brewing Co. making an introduction, Berman was able to make a pitch to Phillip Morris tobacco executives in the mid-90s. Anti-smoking sentiment was growing in the country, and Phillip Morris was doing its best to beat it down. Private Phillip Morris documents that became public during the federal tobacco litigations in the '90s show how the Berman business model was taking form in his attempt to gain business from the tobacco giant.

“Berman’s current client list is a virtual who’s who in the chain restaurant industry,” one Phillip Morris executive wrote to another in a 1995 memo. “We believe we have found a worthy candidate. ...”

Berman’s idea was this: This isn’t just a tobacco issue. He would form an organization to “unite the restaurant and hospitality industries in a campaign to defend their consumers and marketing programs against attacks from anti-smoking, anti-drinking, anti-meat, etc. activists,” according to a 1995 letter from Berman to Phillip Morris.

The other key ingredient of his pitch was that they were fighting a losing battle if they made smoking or drinking the issue. Instead, the debate should be about excessive government regulation that took away people’s free will.

Wittingly or not, Berman was borrowing pages right out of the playbooks of the abortion and racial equality movements from decades before. Rights for African-Americans became a matter of “civil rights,” and those who supported abortion rallied around the “pro-choice” banner.

Berman’s appealing strategy, in essence, was simple and clear: Broaden your base, broaden the argument and poke your opponents in the eye. All he needed was \$600,000 to get it going, and Phillip Morris enthusiastically complied. And so, the Guest Choice Network was born in 1999, granted tax-exempt charity status in 2000 and renamed the Center for Consumer Freedom in 2002.

There are other Berman non-profits, at least five, which have spawned dozens of websites, including:

- American Beverage Institute was created in 1991 to fight government regulation of alcohol consumption issues. Its biggest target is Mothers Against Drunk Driving, which was pushing lower blood-alcohol levels and is now advocating ignition interlock devices for convicted drunk drivers.

- Employment Policies Institute, also created in 1991, which has aggressively opposed federal minimum wage increases and mandated health insurance plans.
- Center for Union Facts, created in 2006, has taken aim at labor unions and pro-labor legislation, including the Employee Free Choice Act.

P's & Q's

It is unclear whether the IRS acted upon Sloan's complaint, as the federal agency never discloses its investigations, but Berman's tax returns suggest the agency has shown some interest. In CCF's 2006 tax return, legal fees spiked to \$130,000, about 10 times the amount of previous years. In 2007, the charity's returns showed two of CCF's five board members — one a Berman and Co. employee, and the other a board member on another one of Berman's public charities — had been replaced. In the IRS complaint, Sloan had specifically challenged the two directors' ability to exercise independent judgment because of their conflicting roles with Berman.

"I think what you are probably seeing," said Marcus Owen, a former director of the IRS division that handles tax-exempt organizations, "are signs of an IRS audit. ... The abrupt change in the board also feels like an IRS settlement demand."

The fact that Berman the philanthropist gives money to Berman the entrepreneur raises "real concerns," said Owens, who is now in private practice, specializing in federal tax law. "Negotiating with one's self," he said, "indicates it's not an arm's length transaction," as required by charity tax law.

Owen's point is underscored in Berman's own words during a 2007 deposition in a federal lawsuit brought by Berman over ownership of a documentary film he funded. Following is an exchange between Berman and opposing counsel:

Q: So the time spent by Berman and Company employees was charged to CCF?

A: Yes.

Q: Who at Berman and Company was deciding what time was charged to CCF?

A: Individuals who work on the projects bill their time, and I determine who is working on the projects.

Q: And then who on the side of CCF determines whether to pay a bill or not pay one?

A: I look at the hours billed to see if they're reasonable.

Q: If you consider them reasonable, you have CCF pay Berman and Company?

A: Correct.

Berman's testimony also offered some additional insight as to how he raises money, and more importantly, from whom he raises money. Berman said he was able to land a donation from the CEO of Hormel Foods Corp., the Fortune 500 meat company most famous for its Spam. Berman testified Hormel was a "supporter" of CCF. He also was

able to raise money from Standard Meat Co., in Dallas, and Covance Laboratories, one of the biggest animal breeding testing operations in the world, which conducts research for agrochemicals, petrochemicals, pharmaceuticals and tobacco products.

Berman said he also shopped the documentary, intended to be critical of People for the Ethical Treatment of Animals, to others he knew in the industry: "... People from Cargill, people from Tyson's, people from Hatfield Meats, Outback Steakhouse, a variety of people like that." It was unclear from his testimony whether any of them actually invested.

Estranged

Born in 1942, Berman was raised in New York City. He graduated from Transylvania College in Lexington, Ky., in 1964, and William and Mary Law School in 1967. Shortly after graduation, he landed his first job, handling labor arbitration cases for Bethlehem Steel. Two years later, he moved to Dana Corp. in Toledo, Ohio, where he continued handling labor and corporate law matters.

His oldest son, David, would later achieve his own semblance of fame in a much different venue than his father's—as a singer-songwriter for the Silver Jews, a popular indie rock band. David Berman, however, grew to loathe his father's professional conduct, in recent years demanding he either give up his business or their relationship would have to end.

David Berman declined to be interviewed for this story, but posted this on the Internet last year:

My father is a despicable man. My father is a sort of human molester. An exploiter. A scoundrel. ... He props up fast food/soda/factory farming/childhood obesity and diabetes/drunk driving/secondhand smoke.

He attacks animal lovers, ecologists, civil action attorneys, scientists, dieticians, doctors, and teachers. His clients include everyone from the makers of Agent Orange to the Tanning Salon Owners of America. ...

With a growing reputation as a smart and aggressive lawyer, Richard Berman became director of labor law with the United States Chamber of Commerce in 1972—a job he held for two years until taking a job as senior vice president for the Steak and Ale restaurant chain, owned by Norman Brinker, who would become Berman's mentor.

In 1984, Berman was hired by the Dallas-based Pillsbury Restaurant group, which had bought Steak and Ale in 1976. In 1986, he started Continuous Education Inc., with Pillsbury and his mentor's company, Brinker International, as his clients. (He would change his company's name to Berman and Co. when he moved the operation to Washington in 1992.) Brinker would become an officer and contributor to some of Berman's non-profits, according to press reports.

Meat

It is only logical that one of Berman's most recent targets is The Humane Society of the United States, the animal welfare charity that has grown significantly in recent years, mostly through mergers and acquisitions, and has become increasingly aggressive on several fronts in its opposition of the methods and practices of country's agricultural and food industry. One of its main targets has been the country's powerful agribusiness sector, and specifically what The HSUS considers inhumane factory farming conditions.

Since 1990, The HSUS has played a central role in a couple of dozen of state ballot measures, most notably Proposition 2 in California, the third such anti-factory farming measure that stopped the intensive confinement of millions of farm animals. Other initiatives halted use of gestation crates to house breeding sows in Florida, as well as gestation and veal crates in Arizona. On another front, The HSUS has prompted the passage of hundreds of state and federal animal protection laws.

Berman's answer: In February, he launched Humane Watch, a CCF-funded website dedicated specifically to "keeping a watchful eye on the Humane Society of the United States." The website consists essentially of daily blog entries taking aim at various HSUS officials and functions.

Its author is David Martosko, who is also employed by Berman and Co. as its director of research. In his biography posted on the website, he says this:

For the uninitiated, animal "welfare" is the position that says we should be concerned about animals' well being, and protect them from needless pain and suffering. At the same time, it's perfectly acceptable to use animals for food, clothing, research, entertainment, recreation, and such. But animals are not people. And when the needs of our species clash with those of another, humans come first.

HSUS President Pacelle said it is not difficult to understand the Bermans of the world: "We're the biggest threat to large-scale cruelty," he said. "He's a front man for industries perpetrating animal abuse."

Martosko also declined to be interviewed, but on April 28, he attended the Animal Ag Alliance Stakeholder Summit and offered this advice to the industry:

"They're going to come after you with animal welfare actions and lawsuits and with regulations that are going to squeeze you with smaller profit margins," he said. "HSUS is a powerful brand name. ... You need to find a way to diminish their moral authority. You need to find a way to go toe-to-toe with them and win on the issues. Right now, they're outclassing you in public approval because they wear the white hat.

Pacelle said HSUS has no design to cripple agribusiness; it just wants to put an end to its most egregious practices.

“The only reason there is conflict on some agriculture practices is that factory farmers insist on treating animals like production machines—keeping some farm animals in a near-constant state of immobilization and subjecting them to inhumane transport and slaughter,” he said. “If the industry corrected these problems, then this tension would not exist.

In April, Berman’s group did garner some media attention, and exacted a degree of angst from the Humane Society, when it pointed out on its website that less than one-half of one percent of HSUS revenue went to animal shelters, a fact Humane Watch asserted was hypocritical and misleading to its donors. As a result, several corporate donors—including Yellow Tail wines—pulled back their pledges, totaling about \$200,000.

For HSUS’s Pacelle, that’s regrettable though understandable. “Corporate funders want to feel good; they don’t want to court controversy,” he said, adding, “But we do still have 11 million supporters.”

As for the issue of donations to local shelters, Pacelle asserts it’s a complete red herring. The HSUS’s mission is not intended to be a pass-through operation, but rather to fight animal cruelty on many fronts—including, legal, legislative, educational and rescue efforts. “They would love it if we spent all our money on rescuing stray dogs and cats,” he said. “And, the \$200,000 of corporate donations HSUS recently lost was all dedicated to the group’s animal rescue operations,” he added.

“The HSUS provides direct care to more animals than any other animal welfare group in the nation,” said HSUS Chief Operating Officer Michael Markarian, “spending more than \$20 million annually supporting local animal shelters and running our own hands-on animal care programs and providing other direct care services.”

While The Humane Society in recent months has been defending itself from Berman broadsides, today, it returned salvo. It came in the form of a joint complaint with Mothers Against Drunk Driving to the New York State Commission on Public Integrity, charging that Berman’s American Beverage Institute failed to register and report lobbying activities in 2008 and 2009 “to influence pending legislation related to ignition interlock devices.” During that time, a bill was pending in the New York State Legislature that would require people convicted of driving while intoxicated to install an ignition interlock device in their vehicles while on probation.

MADD has been an active supporter of such legislation, and ABI a vocal opponent. ABI neither registered as a lobbyist nor reported \$70,000 it spent on newspaper ads in the New York newspapers, opposing the bill, the complaint states. The bill ultimately passed and was signed into law last year.

The complaint also included the following:

“[A]ll ABI work is performed by Berman & Co. employees who bill their time to ABI. As ABI’s president, director, and general counsel, Berman examines Berman & Co. bills charged to ABI and decides whether or not to pay them.” In 2008, Berman & Co.

received management fees from ABI in excess of \$1.2 million. According to its website, ABI is ‘a restaurant trade association’ that represents restaurant and bar owners that serve alcohol.”

ABI Managing Director Sarah Longwell, who also serves as communications director for Berman & Co., declined comment.

Mixed Reviews

Even Berman’s most ardent detractors have to occasionally set aside their contempt to tip their hat to his business and political acumen.

Naomi Seligman, former deputy director for the Center for Responsibility and Ethics in Washington, was one of the first to take Berman on publicly several years ago, launching a website called BermanExposed.org.

“He is scum extraordinaire. He’s scary brilliant,” she said in a recent interview, “but he gets it in a way 90 percent of Washington doesn’t.”

Richard Bensinger, former AFL-CIO organizer, who is credited with bestowing Berman’s Dr. Evil moniker in a 2006 USA Today article, concedes, “I’ve debated a lot of management people, and Berman is by far the toughest one to reckon with. He is articulate, funny, dynamic, aggressive and polished—a real street fighter.”

Michael Jacobson, a Berman target on food and alcohol issues in his capacity as the executive director of the Center for Science in the Public Interest (Berman refers to them as “the food police”), sees Berman as a person “of no morals,” who “has been a mild nuisance over the past decade.”

“They seem to have moved on to presumably more lucrative targets and generally seem to get less and less traction on our issues,” said Jeff Cronin, CSPI’s director of communications. “Even a lot of the mainstream food industry organizations just roll their eyes at Berman’s tactics these days.”

The back-and-forth on Berman tends to focus on his technique and style. But it begs a simpler question: What does Berman actually accomplish in the realm of public debate and policy?

“I don’t think Berman is very effective,” Jacobson said. “He temporarily muddies the water a little, but basically he’s just someone on the sidelines throwing raspberries.”

And then drives home in his Bentley.

Author’s note: In a public statement on Monday May 17, a spokesman for Richard Berman noted an error in the above story, regarding a change in the composition of the

board of directors at the Center for Consumer Freedom in 2007. That error has now been corrected.

As originally written, the story contained the following paragraph:

It is unclear whether the IRS acted upon Sloan's complaint, as the federal agency never discloses its investigations, but Berman's tax returns suggest the agency has shown some interest. In CCF's 2006 tax return, legal fees spiked to \$130,000, about 10 times the amount of previous years. In 2007, the charity's returns showed an abrupt upheaval in its board of directors. Berman, the executive director, was the only survivor.

The last two sentences have been replaced with the following:

In 2007, the charity's returns showed two of CCF's five board members — one a Berman and Co. employee, and the other a board member on another one of Berman's public charities — had been replaced. In the IRS complaint, Sloan had specifically challenged the two directors' ability to exercise independent judgment because of their conflicting roles with Berman.