SUBMISSIONS FOR THE RECORD
Testimony of Clifford O. Arnebeck, Jr., Esq.
on Citizens United v Federal Elections Commission
Before the Senate Judiciary Committee, Patrick Leahy, Chairman
March 10, 2010

I offer this testimony today in honor of the memory and legacy of Doris “Granny D” Haddock, who walked across the United States of America to demonstrate her commitment to limiting the role of money in politics and the role of Congress to check the excessive power of money to influence policymaking. Her efforts were recognized as a prominent factor in the enactment of the McCain-Feingold Bipartisan Campaign Reform Act.

I was trial counsel in Alliance for Democracy v. Citizens for a Strong Ohio and Ohio Chamber of Commerce. This was a twin case to that originally brought by Common Cause/Ohio which had been dismissed by the Ohio Elections Commission in October 2000. After our new case appeared to be making headway, Common Cause/Ohio filed a new case against the U. S. Chamber of Commerce as a companion case to ours. I joined the Common Cause/Ohio Governing Board to serve as Chairman of its Legal Affairs Committee during the progress and success of this companion litigation against the U. S. Chamber of Commerce.

Both the Alliance for Democracy case against the Ohio Chamber and the new Common Cause/Ohio case against the U. S. Chamber concerned the Chamber’s argument that it had a First Amendment right to expend millions of dollars in corporate treasury money to influence Ohio

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1This testimony regarding Citizens United v Federal Elections Commission (Citizens United) supplements the statement I submitted to the White House, the House and the Senate for the record on February 24, 2010, the 207th anniversary of Marbury v. Madison, 5 U. S. 137 (1803).
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Supreme Court elections, and particularly that the Chamber of Commerce had the right to spend more than $7 million in corporate treasury money to overwhelm and adversely dominate the reelection campaign of Democratic Justice Alice Robie Resnick.

The complainants in both of these public interest cases were ultimately successful in defeating, through multiple rounds of litigation in state and federal courts, the Chamber’s deeply flawed First Amendment argument. Both the Ohio Tenth Appellate District Court of Appeals and the U.S. Sixth Circuit Court of Appeals recognized that “Citizens for a Strong Ohio” was but a thinly corporate veiled political action committee that had failed to submit to Ohio’s election laws.

In a groundbreaking investigative piece in the Wall Street Journal on September 11, 2001, Jim VandeHei exposed four one million dollar checks that had been given by Wal-Mart, Home Depot, DaimlerChrysler and the American Council of Life Insurers to fund the U.S. Chamber’s part of the attack upon Justice Resnick. In June of 2001 Mike Wallace of 60 Minutes had filmed his investigation of the Chamber’s attack upon Ohio Justice Alice Robie Resnick, but his report never aired, I believe because of corporate and political pressure.

I am currently trial counsel for the King Lincoln Bronzeville Neighborhood Association, Ohio Voting Rights Alliance for Democracy, Rainbow PUSH Coalition, among others, that on July 17, 2008, asserted a cause of action against Karl Rove and the U.S. Chamber of Commerce Institute for Legal Reform under the Ohio Corrupt Practices Act. This assertion was based upon the substantial evidence that Karl Rove and Tom Donahue conspired to overturn the Constitution of the United States and the constitutions of the various states, including Ohio, in order to achieve corporate domination of American politics in the twenty-first century.

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The Roberts five justice Republican partisan majority of the U.S. Supreme Court in
*Citizens United*, in conspicuous violation of Article I that vests legislative power in the Congress,
therefore presumed to endow corporations with the free speech privilege of citizenship in the United
States. By presuming to overrule *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652
(1990), which upheld the power of states to restrict CEOs of corporations from spending
corporate treasury money to influence candidate elections, the Roberts five justice partisan
majority also violated the Article IV, Section 4 guarantee to every state of a republican form of
government, and sought to elevate chief executive officers of corporations to a position of
nobility in relation to other citizens. The *Citizens United* majority would entitle corporate CEOs
to command the expenditure of money other than their own in support or opposition to
candidates for public office.

There is no precedent in either English or American law for this judicial attempt to
establish a new aristocracy of corporate princes to lord over governments at all levels, through
their ability to command practically unlimited private corporate treasuries in the aid of or in
opposition to candidates for political office. The Taney seven justice majority in *Dred Scott v
Sanford*, 60 U.S. 393 (1857), is precedent for a similar flagrant judicial attempt to usurp the
powers of Congress in Article I and the power of the people in Article V to Amend the
Constitution.

*Just as President Lincoln proclaimed the emancipation of slaves contrary to the*
pronouncement of the Taney Supreme Court seven justice majority in *Dred Scott v Sanford*, 60
U.S. 393 (1857), that slaves could not be freed without compensation to their owners and could
never be citizens of the United States, President Obama should proclaim that the laws of
Congress, requiring that corporate expenditures relating to political candidates in proximity to an election, except in application to the facts of the *Citizens United* case, shall continue to be enforced by the Executive Branch, irrespective of the Roberts five justice Republican partisan majoritiy pronouncement to the contrary. That would limit the court’s decision to the scope of its jurisdiction under Article III to adjudicate the case before it.

And, Congress and the states must also decline to accept the Court’s Roberts five justice Republican partisan majority transgression of separation of powers in presuming to amend the Constitution by judicial fiat. Corporations including the Royal African Company, East India Company and Hudson Bay Company were well known entities at the time the Constitution was framed. Congress and the states must not defer in any way to the Roberts five justice Republican partisan majority’s notorious attempt to anoint such entities and their descendant creatures of state charter with any element of precious citizenship in the United States, much less to install their chief executive officers as the princes and overlords of American politics.

Respectfully submitted.

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