

## Hucksterism and Self-Dealing at the Sierra Club

*Environmentalists rake in big bucks from Global Warming activism and the War on Coal*

By David W. Schnare

**Summary:** *The Sierra Club and its sister foundation have abandoned their traditional charitable mission of conserving America's wilderness lands in order to chase dollars that can be had for themselves and their leaders and donors by engaging in business activities—including promoting some businesses at the expense of other businesses. They have left not only their mission but the law governing nonprofits far behind.*

When a group like the Sierra Club morphs from a mainstream conservation group into a radical “green” organization, you would expect it to take extreme positions on the issues with which it deals. But you might be surprised by the extent to which the tax-exempt Sierra Club, its affiliated foundation (also tax-exempt), and its board members gain financially from the War on Coal and other causes the Club supports.

The Sierra Club generates about a million dollars a year in taxable unrelated business income on which there is no evidence that it is paying taxes or intends to. Further, as a nonprofit organization, it may not compete with commercial businesses, yet there is clear evidence it does. The Club operates a store selling all manner of goods. Worse, the Club has become the marketing arm for two private companies selling solar panels. Each of these activities is suspect. None of these activities represents the core purposes of the Sierra Club. Both types of activities—direct sales in competition with for-profit businesses, and acting as the marketing



**The Sierra Club's promotion of selected "solar energy" companies (seen here on the Web) and its "Beyond Coal" campaign happen to be of financial benefit to the organization and to several members of its board of directors.**

arm for private companies—constitute participation in commercial business.

Both the Sierra Club and its affiliated Sierra Club Foundation, have received tax-exempt status from the U.S. Internal Revenue Service, whose rules prohibit a variety of actions. Among the prohibitions is an absolute ban on “net earnings of such entity inur[ing] to the benefit of any private shareholder or individual.” In addition, the Sierra Club is subject to tax on its unrelated business income if (a) the income arises from a trade or business, (b) the trade or business is regularly carried on, and (c) the trade or business is not substantially related to the organization's tax-exempt purpose.

Meanwhile, the Club takes political positions that happen to further its money-

making efforts. This is what's known among economists as Bootleggers-and-Baptists. (The term is not meant as an offense to Baptists or, for that matter, bootleggers. It's what economists call the concept.) Thirty-one years ago, economist Bruce Yandle offered what he has called “a perhaps novel but crude theory” on the manner in which people

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with seemingly disparate interests work together to manipulate governments and government regulations. The concept of “strange bedfellows” in politics is an old one, but Yandle offered an explanation, Bootleggers-and-Baptists, to explain how these relationships are created.

The essence of B&B is that regulation is often promulgated when it is demanded by two distinctly different groups: the “Baptists” who claim the moral high ground and vocally endorse policies they consider laudable, and the “Bootleggers” who are in it for the money. The two names come from the age of Prohibition, when selling alcoholic beverages was illegal, and two groups advocated for keeping the trade illegal: the Baptists, who opposed alcohol use in principle, and the bootleggers, who made good money by selling alcohol in the black market.

Today, there are no more prominent “Baptists” than Sierra Club officials, and no more prominent “Bootleggers” than those who would profit from anti-coal policies.

### Industry’s arms

Starting in the 1990s and accelerating significantly in 2007, the Sierra Club and its Foundation are not merely tools of industry, but *arms* of industry. There is no “bright line,” no clear division, between activities that are intended to

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inform the public about issues of public interest and those that are intended to overtly manipulate policy debates so as to favor one industry over another.

The Sierra Club and its Foundation appear to have gone far beyond issue advocacy, narrowing their policy focus in a manner that directly benefits private interests and that, it appears, was intended to harm some private interests to the benefit of others. The Sierra Club’s function on behalf of private businesses also involves marketing. There are three aspects to marketing: sales, promotion of products, and demotion of competitors’ products. The Sierra Club has been doing each of these.

### Outside their scope

The sort of influence peddling in which the Sierra Club engages is far beyond the usual Washington infusion of private sector policy lobbyists into the government after a change in an administration. Federal regulations and federal policies in general often have direct effects on the marketplace. Indeed, that is usually their purpose. But such policies and regulations are supposed to be created through a process in which business people and other members of the public have a full opportunity to participate. Ideally, government actions are neutral, affecting the marketplace evenly and not favoring one business over another. Here, the Sierra Club and its Foundation have traded financial security for an open effort to close down the most economically efficient portion of the electricity industry; this was done in a way that benefits their directors’ and donors’ companies, which could not compete in that marketplace without government grants and loans, special-interest tax breaks, mandates requiring people to buy wind, solar, etc., and the forced demise of coal power and, eventually, power from natural gas.

The Sierra Club is associated in the public’s mind with the preservation of unique lands like Yosemite National Park. Lobbying to pass preservation

legislation has been a mainstay of the Club’s work, but the U.S. tax code limits the scope of that work. As a tax-exempt 501(c)(4) organization, the Club must be operated exclusively for the promotion of social welfare. Organizing trips into the wild may fall within this scope, but attempting to destroy a portion of the U.S. economy is not within its mission, no matter how hard the Club attempts to clothe that work in pro-environment garb. That’s especially true when their efforts cannot produce the environmental benefit they claim to seek.

Further, the tax code specifically limits efforts to benefit “private interests.” The Sierra Club has gone beyond the allowable limits in its War on Coal. More than half its activities and more than half its budget have been dedicated to this war. The Sierra Club’s anti-carbon activities have been specifically organized and operated in a manner intended to promote non-carbon energy generation, which is big business.

This is a form of “rent-seeking,” which Wikipedia defines as “spending wealth on political lobbying to increase one’s share of existing wealth without creating wealth. The effects of rent-seeking are reduced economic efficiency through poor allocation of resources, reduced wealth creation, lost government revenue, increased income inequality, and national decline.” In this case, “rent” means income that comes from neither wages nor profits.

Because the Sierra Club is specifically organized around an issue that would allow them to seek “rents” from anti-coal business interests, and because of the Club’s self-proclaimed success in this endeavor, the Club has impermissibly sought to benefit private interests through its influence peddling. Put simply, an entity is not supposed to be tax-exempt if it operates for “*any* substantial non-charitable purpose.”

The Sierra Club Foundation, a 501(c)(3) group, has even less leeway in its

activities. The Foundation may not expend funds to lobby beyond allowable limits (that is, to promote causes outside the purpose of the organization). More than half the Foundation's grants go to the Sierra Club for just such lobbying efforts. Further, because the Sierra Club itself violates the allowable limits for propaganda and lobbying, the effort to wash money through the Foundation for this purpose makes the Foundation a co-conspirator in its sister organization's violations of the law.

### Greenwashing

The Sierra Club was funded by grassroots supporters until the emergence of the environmental alarmist movement in the mid- to late 1990s. When it became desirable for companies to "greenwash" their activities—to make themselves appear environmentalist-friendly—the easiest and cheapest way to achieve that goal was to secure tacit or explicit endorsements from environmentalist groups such as the Sierra Club, often by funding such groups.

The Sierra Club came late to this new nonprofit funding model, and it joined in this process slowly. First the Club entered into an alliance with unions, the BlueGreen Alliance, which became the Apollo Alliance (see *Green Watch*, Nov. 2012). But the Alliance's focus was on "green" jobs—jobs in such areas as solar, wind, electric cars, etc.—and the unions have never seen the Sierra Club's activities as doing much to create meaningful economic opportunity for workers. So, still needing money, the Sierra Club turned to the other side of the table and went after corporate management and product endorsement. In 2008, according to the *New York Times*, the Sierra Club endorsed a commercial product for the first time in its 116-year history. That product was Clorox's Green Works product line, and the Club received \$1.3 million for its endorsement. In 2009, the Green Works product line's sales jumped more than 50 percent—a direct benefit to the company—in exchange for the

intangible credibility of the Sierra Club. This endorsement marked a dramatic shift in the Sierra Club's culture, clearly a move away from its commitment to its core mission.

The shift to corporate advocacy did not sit well with the Club's grassroots supporters. The Florida chapter openly criticized the for-pay association with the Clorox brand, which, the Florida members argued, tarnished the organization's credibility. The left-wing magazine *Mother Jones* reported that, in response to the criticism, Sierra Club headquarters suspended the entire

35,000-member Florida chapter for four years.

In agreeing to the Clorox endorsement, the Club's Board of Directors had disregarded the opposition of the Club's corporate endorsement committee, which had been formed to find ways to generate funds through corporate donations. *Mother Jones* attacked the Clorox deal as "lock-step, corporate stoogery, not dedication to environmental protection."

Endorsing commercial products that have nothing to do with the Club's mission is not allowed and clearly falls

## The Sierra Club's radical turn

*Editor's Note:* The Sierra Club was once a mainstream environmental group, promoting the conservation of parkland and counting among its members some conservatives such as then-Congressman Newt Gingrich. Recently, however, it has turned toward the Far Left. With the approval of the organization's board, executive director Michael Brune was arrested at the White House gates during a protest of the Keystone XL pipeline, making him the first leader in the group's 120-year history to be arrested at a protest.

Opposition to the pipeline is a fringe view. Even many environmentalists admit that the pipeline would have no negative impact on the environment. Based on a Pew study, the *Washington Post* reported in June that "Even Democrats who prefer to develop alternate energy sources before expanding the use of fossil fuels [sic] say they want the Keystone XL pipeline built." Of eight political types classified in that Pew study, ranging from "Steadfast Conservatives" to "Solid Liberals," only the Solid Liberals (about 15 percent of the population) opposed the pipeline.

That's not the only issue on which the Sierra Club has taken an extremist position. Interviewed about Global Warming on the radical radio program "Democracy Now!," the Club's executive director, Michael Brune, insisted: "If we want to keep our temperature increases below three and a half degrees Fahrenheit, at least two-thirds of the oil, and coal, and gas that we know about all around the world has to stay in the ground." Such a restriction would crush the American middle class and consign billions of people around the world to abject poverty. Yet even that draconian limitation, Brune added, would be "reckless"—that is, not strict enough.

Two years ago, the Sierra Club and Greenpeace joined with the Communications Workers of America union (CWA) and the National Association for the Advancement of Colored People (NAACP) to create a powerful new coalition, the Democracy Initiative. The coalition's priorities: limiting the freedom of speech, blocking laws that prevent vote fraud, and restricting debate in the U.S. Senate—all as a means to an end, the crushing of their political opposition. [For more on the Sierra Club's ideological shift and its role in the Democracy Initiative, see our June 2013 issue.] — *SJA*

## A common agenda: The Sierra Club and those secret EPA e-mails

The Sierra Club's tremendous influence is apparent from documents obtained under the Freedom of Information Act by the Energy & Environment Legal Institute, of which I am general counsel.

Copies of e-mails illustrate the degree of the Club's involvement in regulatory activities at the U.S. Environmental Protection Agency (EPA). The e-mails reveal close and facially (that is, apparently) improper relationships between current and former Sierra Club lobbyists, the latter now holding positions with EPA from which they promote the "green" groups' lobbyists, materials, and positions. Those current and former Sierra Club lobbyists, and closely allied lobbyists for such groups as the Natural Resources Defense Council, played substantial roles in crafting the aligned agendas of the Club (and allied groups) and the EPA.

Particularly troubling, for example, is the relationship, exposed in the e-mails, between Michael Goo and John Coequyt. Goo was recently head of the EPA Office of Policy and is a former Natural Resources Defense Council (NRDC) lobbyist, while Coequyt is a top Sierra Club lobbyist running what EPA e-mails acknowledge as Sierra's "anti-coal campaign." Coequyt worked to ensure that Goo participated in meetings of importance to Sierra, while Goo ensured his colleagues paid particular attention to Sierra's concerns and materials. Other documents demonstrate how Coequyt—

► Supplied research and advocacy materials directly to individual ac-

tivists within EPA, even helping EPA keep score of coal plants to shut down and to be blocked, for "internal use."

► Pushed EPA officials to ensure the permanent shelving of "zombie" coal plants, that is, plants that had been planned and might be built one day.

► Avoided, through various means, creating complete logs of their interactions. This included meetings with Goo when Goo was in the building for other purposes (thus camouflaging the Goo-Coequyt encounter), and a meeting with Goo that was held at the J.W. Marriott Hotel near EPA's headquarters (thus circumventing the inclusion in EPA's visitor logs of information on the meeting).

► Exploited the environmentalists' information pipeline from the Agency—a pipeline that was considered so useful that, when Coequyt was on vacation, his Sierra Club team would plead with EPA friends for updates on the grounds that his absence left them feeling out of EPA's loop.

Goo and Coequyt's relationship, while notably close and improperly collaborative, was not unique. Documents show that EPA press staff collaborated with a Sierra Club lobbyist to write a statement by Sen. Jeanne Shaheen (D-N.H.) on the "climate" agenda for a "roundtable" event in which they participated. "Green" lobbyists provided EPA with polling on items on their shared agenda; they were directly involved in deciding where EPA would hold public hearings associated with the War on Coal; and they worked together to

ensure that the group of attendees at the hearings would be filled with supporters of their shared agenda.

"Green" lobbyists received special treatment from EPA officials in submitting comments for the administrative record on important regulations. (That's important because comments from the public are an important part of the legal process for creating government regulations.) The environmentalist groups were able to submit comments ahead of any members of the general public or other interested parties. In fact, some of their comments were submitted before the record was open for comment by the general public. EPA employees likewise submitted special interest group comments directly if those groups failed to do so themselves.

These relationships go all the way to the top. As detailed in the May 2013 issue of *Green Watch*, former EPA Administrator Lisa Jackson hid messages from public scrutiny by using a fake e-mail account in the name of "Richard Windsor" (named after her dog and her home town). She communicated with senior Sierra Club lobbyists via the secret e-mail account, and used it to "amplify" various public-relations efforts for the shared EPA/Sierra Club agenda.

To this day, senior leadership in the EPA, made up of career bureaucrats and former Sierra Club activists, execute the Club's promotional and demotational efforts on behalf of its corporate donors and its Foundation's directors, and do so against the interests of other legitimate stakeholders and of the public at large.— **DWS**

afoul of the law. These endorsements are not for the purpose of bringing about civic betterment and social improvement, such as bringing children to national parks or encouraging municipalities to preserve natural settings. These endorsements are intended to generate revenues to the Club, period. They are no different from advertising a product on behalf of that product's manufacturer, and they are a form of carrying on a business. They are beyond the law, and my colleagues and I at the Energy & Environment Legal Institute have asked the IRS to withdraw the Sierra Club's tax-exempt status until it pays taxes on those revenues.

### **Expanding private corporate markets**

After the Club turned away from the reliance on grassroots members that had been part of its culture, endorsements and renting its membership lists to corporations for marketing purposes apparently did not generate the funds the Sierra Club and its Foundation desired. Club officials wanted to become leaders in the emerging "sustainability" campaign that had morphed into Global Warming activism. To play in that game, the Club needed to significantly expand its funding. The logical next step was to go beyond endorsements and work to expand market share as agents of corporations, disguised as policy advocates.

In 2007, the Club picked an industry to attack. Attacking that industry would put the Club in a position to obtain massive donations from the industry's technological competitors—donations made in exchange for reducing the target industry's market share, while increasing the market share of the Club's new donors. The target of this scheme: coal.

Remember the "Bootleggers" (who are trying to make money) and the "Baptists" (who justify their position on moral grounds)? The Sierra Club's attack on coal offered the Club two ready Bootleggers who wanted to expand their market share in electricity generation at

the expense of coal. Those Bootleggers were the natural gas industry and the so-called "renewable" energy industry.

Natural gas is a direct competitor with coal in the electricity generation marketplace. At the time, many coal-fired plants were reaching the end of their normal lives and Environmental Protection Agency regulations were putting new coal-fired plants' life-cycle costs on a par with electricity generation from natural gas.

The Sierra Club and its Foundation sold the natural gas industry on a War on Coal, allowing the "nonprofits" to reap massive rewards. In 2007, the Club persuaded Aubrey McClendon, then-CEO of natural gas supplier Chesapeake Energy, to support the war. According to the *Washington Post*, McClendon gave the Club \$26.1 million in contributions between 2007 and 2010, and offered an additional \$30 million in 2011. By then, however, the Sierra Club no longer needed McClendon, because the War on Coal had expanded to include all carbon-based energy, including natural gas. With countless billions of taxpayers' and ratepayers' dollars being funneled into "renewable" energy sources by politicians and bureaucrats, the Club didn't need the natural gas industry anymore.

The Sierra Club's commitment to the War on Coal was massive, and an examination of the numbers shows the degree to which the Club shifted its focus from its original grassroots mission to its new role as an arm of industry. The Sierra Club Foundation's 2012 tax filing lists the three largest programs it funds. Two of these three have the stated purpose of reducing the use of coal by 80 percent by the year 2050. These two programs alone make up over 52 percent of the grants given out by the Foundation, and 60 percent of the funding given to the Sierra Club by the Foundation.

Another reason the Sierra Club no longer needed the natural gas "Bootleggers": It had gained a very wealthy politician

from whom to obtain support. According to the Capital Research Center, during the 2009-2010 campaign season, the Sierra Club spent more than \$1 million supporting candidates like New York Mayor Michael Bloomberg. The billionaire Bloomberg did not need their financial support, of course. He needed their on-the-ground, door-to-door political support. After his 2009 re-election, he gave the Sierra Club \$50 million for the War on Coal.

### **Insider support**

Meanwhile, there's a group of "renewable" supporters who attempt to hide themselves from direct involvement in the Sierra Club by a thin veil. They are the directors of the Sierra Club Foundation.

The Sierra Club is a 501(c)(4) organization that may lobby within very broad legal limits. The Sierra Club Foundation is a 501(c)(3) organization that faces much narrower limits to its lobbying. Yet, as is often the case of affiliated (c)(4) and (c)(3) organizations, they are two pockets on the same pair of pants. In 2012, for example, the Club raised \$45.7 million for the Foundation. The Club kept \$4.7 million to offset its fund-raising activities, giving the Foundation \$41 million. Then, the Foundation turned around and gave it all back to the Club, throwing in an additional \$4 million to the national offices and another \$4.8 million to Sierra Club chapters, according to the Sierra Club's 2012 tax filing.

For what purpose did the Foundation give the Club this money? The War on Coal.

The three largest Foundation projects (as measured by expenses) were (1) the War on Coal [\$27.2 million]; (2) Sierra Club local chapters who are the foot soldiers in the War on Coal [\$2.9 million]; and (3) the "Resilient Habitats" program that is part of the "Climate Recovery Partnership" which the Foundation explains is an initiative to "reduce U.S. carbon emissions by at least 80 percent by 2050."

In this case, the “Bootleggers” and the “Baptists” are the same people. They sit on the Sierra Club Foundation board of directors. Of the 18 directors, eight of them directly benefit from the War on Coal. None is paid to be a director of the Foundation, yet the organizations they own and/or run are the direct beneficiaries of a transition away from coal and natural gas to the forms of energy that backers call “renewable.” The Bootleggers on the board include:

▶ Steven Berkenfeld (Vice Chair), who manages Barclays’ investment banking coverage of the so-called Cleantech sector.

▶ Sanjay Ranchod (Secretary) – director and assistant general counsel of solar company SolarCity.

▶ Geeta Aiyer – founder and manager of environmental investment funds Walden Capital Management and Boston Common Asset Management.

▶ Peter Cartwright – managing partner at “renewable” energy company EcoPower.

▶ Lynn Jurich – founder and co-CEO of solar company Sun Run.

▶ Mike Richter – partner at “renewable” energy company Healthy Planet Partners.

▶ Dan Shugar – CEO of solar company Solaria Corporation.

▶ Molly O. Ross – co-owner and president of Deltex Royalty Company Inc. and LMA Royalties, LTD. She is also president of the Swift Wings Foundation which she created to support advances in “renewable” energy and environmental “sustainability.”

A War on Coal—whose sole purpose is to create, by 2050, monopoly conditions for “renewable” energy generation, at great cost to taxpayers and ratepayers, and with no direct, demonstrable effect on Global Warming—is not a charitable

purpose. (Keep in mind that those who raise the alarm about Global Warming have based their fears on the presumption that increases in carbon dioxide emissions should have raised global temperatures significantly over the past 18 years. In the real world, temperatures have remained level during that period.)

Without question, the biggest Sierra Club “Bootlegger” is David Gelbaum. He is the single largest donor to the Sierra Club Foundation, contributing more than \$100 million, according to the Foundation Center. He controls the Quercus Trust, an investment trust through which he controls more than 40 “clean tech” [*sic*: non-carbon-based energy] companies. He is currently chairman of the board and CEO of Entech Solar. Entech was formed to develop concentrating photovoltaic power systems, a failed technology that has nearly bankrupt the company and which the company has had to abandon as cost-inefficient, even after 30 years of functional subsidy from the federal government. Despite the technological failures, the War on Coal (and other carbon-based energy)—including the web of subsidies and mandates that is handed out at the expense of taxpayers and ratepayers—makes it possible for Gelbaum’s enterprises to continue to develop and market products for use in the solar energy industry.

Gelbaum is also a director of Energy Focus Inc., Clean Power Technologies, and Axion Power International, Inc. The last is a battery-based electric generating system manufacturer in direct competition with electric generation from other sources. Because of the Sierra Club’s success in shutting down coal-fired electricity in California, that state must rely on unreliable solar and wind energy that can only operate efficiently if it is buffered by energy stored on the grid (or by natural gas or coal generation). In light of the state’s movement away from carbon-based electricity, state regula-

tors have required PG&E, Southern California Edison, and San Diego Gas & Electric to collectively buy 1.3 gigawatts of energy storage capacity by 2020. The Sierra Club initiative against carbon-based electricity thus translates directly into a massive business opportunity for Gelbaum’s Axion Power products.

This is the Bootlegger-and-Baptist model in practice. It is businessmen using a nonprofit to line their own pockets. It is an effort by private businesses to increase their market share, and, conducted by a tax-exempt nonprofit, it is against the law.

The Sierra Club Foundation’s War on Coal inures to the private interests of eight Directors of the Foundation. That is in direct violation of tax law and is sufficient to invalidate the Foundation’s nonprofit status. Under law, the Foundation must be organized and operated “exclusively” for a tax-exempt purpose. Yet \$31.6 million of the Foundation’s 2012 \$69.5 million in gross receipts was targeted to the War on Coal and related activities. That was 45.5 percent of the Foundation’s revenues, which makes it a substantial noncharitable purpose.

At the same time, Gelbaum’s \$100 million in donations that go to increase the market share for his 40 “clean tech” companies is a form of inurement to an individual not allowed by law. Although he is an “outsider” (not a director) with regard to the Sierra Club Foundation, the benefit to him as the foundation’s largest donor remains another basis for violation of the Foundation’s nonprofit status.

The IRS has previously taken care to distinguish between sham claims of charity and actual charity. The successful effort of businessmen and businesswomen to use the Sierra Club for their own corporate purposes is a new version of an old game. The Club and its Foundation have become committed to corporate welfare in place of true charity.

## Door-to-door and online

The Sierra Club has now moved beyond its “Baptist” energy evangelism and taken up the role of Hucksterism. If you want to buy solar panels for your home in Maryland or Utah, contact the Sierra Club. Club members and Club websites are hawking solar energy—not just the concept, but specific devices from specific companies. The Club is a marketing arm of private solar companies who give the Club a kickback on each sale. In legal terms, the Sierra Club is obtaining income arising from a trade or business that is carried on regularly and that is not substantially related to the organization’s tax-exempt purpose. This violates the law and subjects that income to taxes from which the Sierra Club has been and is exempt.

To find evidence that this activity is business income, thus illegal, one need go no further than the Sierra Club itself. “Every home that we get to go solar, Sungevity gives us \$750 back,” Sierra Club Chief of Staff Jesse Simons said in a Sungevity video promoting the campaign. “This has been a great revenue-generating tool for the Sierra Club,” she added.

Sungevity, having paid the Sierra Club and similar environmental organizations over \$1.5 million for their services as marketing representatives of the firm, attempts to hide the true nature of its relationship with the groups by claiming that its program is for the groups’ “members and supporters.”

But the astonishing truth is that Sierra Club members are going door-to-door, especially in new home developments, marketing the Sungevity brand. Sierra Clubbers aren’t flacking for the Renewable Energy Corporation, Paradise Energy Solutions, SolarEnergyWorld, or Astrum Solar—all Sungevity competitors for the Maryland solar market. Nor are people from the Sierra Club flacking for Intermountain Wind & Solar,

Solartek, or Utah Solar & Alternative Energy—all competitors to the Sierra Club’s Utah business partner, Creative Energies.

Nor are Maryland and Utah the only places where the Sierra Club has become an arm of private companies. The Sierra Club marketing for Sungevity (and not for any other local companies) is underway in Arizona, California, Colorado, Connecticut, Massachusetts, New Jersey, New York, and Washington, D.C., according to the Club’s website. The Sierra Club appears to have established a marketing arm for private solar companies in every state in which it has a chapter.

Meanwhile, the Sierra Club has an on-line store selling hats, bags, calendars, tee shirts, and “organic cotton” caps. And if you want to go on vacation, the Sierra Club can help you put together your trip (and you don’t need to be a member to take advantage of this service). This is mainstream, online marketing of commercial products that have nothing whatever to do with the nonprofit mission.

The law does not allow a nonprofit to engage in these types of hucksterism. Nonprofits are prohibited from engaging in direct commercial sales—creating unrelated business taxable income (UBTI)—on which they don’t pay taxes.

In pitching the sale of solar panels, the Sierra Club is acting as the sales force for two private companies, to the exclusion of others in the marketplace. The IRS rules regarding this behavior cannot be more clear: “The promotion of social welfare does not include . . . carrying on a business with the general public in a manner similar to organizations which are operated for profit.”

The Sierra Club has a store through which to sell its goods. Now, if someone had donated those goods for resale, they would not be taxable. No one did that.

The Club claims these sales as advertisement for their activities and it claims a loss on them, thus avoiding taxes. This is a sham claim. A hat is a hat regardless as to whether there is a logo on it or not. The cost of putting a logo on a hat is but a tiny portion of the cost of the hat or the price of the hat. Its travel service is in direct competition with many travel agencies and travel guides, and clearly constitutes a private business that does not “serve a valid purpose and confer a public benefit,” as the IRS requires.

## Conclusion

The Sierra Club and the Sierra Club Foundation have stepped over the line. They have engaged in activities that are charitable only to private interests far from their mission. They have attempted to disguise this behavior in a cloak of high-mindedness and civic duty, but the reality is that the Club and the Foundation are engaging in classic “rent seeking” and profit making—for themselves, for their directors, and for private individuals who exchange donations for increased market share. This they cannot do and remain compliant with the law.

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**Many thanks,  
Terrence Scanlon  
President**

# GreenNotes

**New York City** is the world's media capital, and extremists often use it as a venue. For instance, in 1933, 250,000 marched down **Fifth Avenue** in support of the racist and fascist **National Recovery Administration**, and in 1938 the pro-Nazi **German-American Bund** rallied at **Madison Square Garden**. This September, the Global Warming community held its **People's Climate March**. Organizers did little to hide the role of extremists in the festivities: Featured participants included former **Clinton-Gore** consultant **Naomi Klein**, author of a new book on how Global Warming means the end of capitalism (***This Changes Everything: Capitalism vs. the Climate***); New York City Mayor **Bill de Blasio**, who supported the Soviet **Sandinistas** in **Nicaragua** and honeymooned in the socialist paradise **Cuba**; and **Al Gore**.

Sponsors of the march included self-described socialists (the **Socialist Party USA**, **Socialist Alternative**, **Democratic Socialists of America**, the **International Socialist Organization**, and many others), anarchists (the **Ruckus Society**, the **Anti-Oppression Forum Anarchist Collective**, the **Black Rose Anarchist Federation**), and outright Communists like the **Ben Davis Club** (an openly Communist group named after a man who supported the mass murderer **Stalin** and the **Soviet** invasion of **Hungary**), the Communist Party publication ***People's World***, and the **Communist Party USA** itself. The Communist Party, it should be noted, has killed an estimated 100-150 million people.

Unions are split over the **War on Coal**. The **United Steelworkers** joined the anti-working-class **Sierra Club** to form the **BlueGreen Alliance** (now the **Apollo Alliance**) in support of environmental extremism, while the **United Mine Workers** and the **International Brotherhood of Electrical Workers**, among others, oppose the **Obama** administration's War.

Still, the UMW's leaders, deeply tied to the **Democratic Party**, can't stop themselves from trying to blame **Republicans** for the War. UMW President **Cecil Roberts** attacked **Elaine Chao**, the former Secretary of Labor, as part of a union assault on the re-election bid of Chao's husband, Sen. **Mitch McConnell** (R-Ky.). Chao is on the board of **Bloomberg Philanthropies**, headed by former New York City Mayor **Michael Bloomberg**. Before she joined, that organization in 2011 pledged to funnel \$50 million into the Sierra Club's "Beyond Coal" campaign. Roberts attacked Chao's "continued service on the board of this organization, one whose actions have already cost thousands of coal miners in **Kentucky** and elsewhere their jobs." The Beyond Coal campaign is intended to shut down one-third of coal-fired power plants by 2020, and its executive director declared, "the only question is whether the last lump of coal that will be burned happens in 2030 or 2050. I put my money on 2030."

By the way, the attack on Chao and McConnell isn't the first time the unions have gone to great lengths to make the War on Coal somehow the fault of Republicans. In 2012, **Richard Trumka**, president of the **AFL-CIO** and former head of the UMW, blamed it on **Mitt Romney**. "Those EPA rules were ordered by the **Supreme Court** as a result of a lawsuit by Mitt Romney's state when he was governor. If there is a 'War on Coal,' it starts and ends with Mitt Romney." In fact, the official who spearheaded the lawsuit was the state's attorney general, a Democrat elected separately from then-Governor Romney. Romney opposed the ruling.

Opening a year late, a musical on "climate change" ran for three weeks in New York before a national tour that ended after a single show in **Kansas City**. The musical, "**The Great Immensity**," featured songs about storm-wrecked towns and a doomed passenger pigeon. At a congressional hearing, when President Obama's science advisor, **John Holdren**, defended the **National Science Foundation**—which had funded the show with almost \$700,000 in taxpayers money—Rep. **Lamar Smith**, chairman of the **House Science Committee**, shot back: "We're going to have to agree to disagree."

In the 1950s and '60s, officials often declined to enforce the law when civil rights workers were assaulted or killed. President Obama has declared that he has the authority to refuse to enforce the law in many areas. Now **Sam Sutter**, the district attorney of **Bristol County, Massachusetts**, has refused to prosecute two men who faced up to two years in jail for using a lobster boat to block the path of a coal ship to the **Brayton Point** power plant. His reason: The men were trying to prevent "climate change." Before a cheering crowd, Sutter announced the decision, declared his intention to attend the People's Climate March, and waved a copy of an anti-coal article from a music magazine. Sutter, who has run for **Congress** and expressed interest in statewide office, said later that the cheers he received when he announced the decision were the loudest he'd heard since his election victory as D.A., and he was gratified with "all the requests for interviews."