

# Market-Based Campaign Finance Reform

Christian Cox\*      Nick Warshaw†

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## Abstract

Since the U.S. Supreme Court’s 2010 decision in *Citizens United v. Federal Election Commission*, so-called “Super PACs” have spent heavily in elections, raising concerns about electoral fairness and political representation. This paper evaluates a novel market-based response: Super PAC insurance. By indemnifying candidates against Super PAC expenditures, such contracts can deter outside spending and provide investor returns without public funding or legal reform. We estimate actuarially sound premiums based on a battery of models predicting Super PAC behavior. Our analysis shows that Super PAC insurance can be both financially viable and potentially effective at mitigating the influence of Super PACs.

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\*Assistant Professor, University of Arizona, christiancox@arizona.edu.

†Attorney, Loeb and Loeb LLP, nick.warshaw@gmail.com.

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# 1 Introduction

For the last few decades in American politics, the volume of political spending has crept slowly upward each election cycle. The 2010 Supreme Court decision, *Citizens United v. Federal Election Commission* (FEC), supercharged this trend. Afterwards, outside spending, political expenditures made by groups other than candidates or political parties, skyrocketed. Total spending on all independent expenditures increased by over 1,000% since 2010 (Open Secrets 2025). The Supreme Court has effectively shut down those interested in reforming campaign finance through the courts. Moreover, Congress is extremely unlikely to pass campaign finance reform legislation in the near future (Pino and Fishman 2025). As such, those interested in changing this campaign finance system must turn to innovative means of reducing the influence of money in politics.

The private sector may provide alternate methods to deter Super PACs from spending in elections. A private ordering model dramatically reduced Super PAC spending in the 2012 Massachusetts U.S. Senate race (Sitaraman 2014). Senator Elizabeth Warren and former Senator Scott Brown signed “The People’s Pledge.” Both candidates agreed that if a Super PAC supported their candidacy, they would donate, from their campaign funds, 50% of the amount any Super PAC spent on their behalf to a charity of their opponent’s choosing. The Pledge appeared to work: outside spending accounted for 9% of total political expenditures in this Massachusetts Senate race. By contrast, in the highly competitive 2012 U.S. Senate races in Virginia, Wisconsin, and Ohio, outside spending accounted for 62%, 64%, and 47% of total spending, respectively (Tyler 2013). Crucially, The Pledge largely deterred major third-party groups, such as the League of Conservation Voters on the left and American Crossroads on the right. Before The Pledge, these groups spent millions, but curtailed their spending once The Pledge went into effect (Sitaraman 2014).

The Pledge demonstrated that “private ordering, rather than public action,” can reduce the influence of Super PACs on our political system (Sitaraman 2014). Despite widespread media attention, few other candidates adopted The Pledge. Ultimately, such agreements require mutual consent between two rival candidates. Invariably, one candidate believes Super PAC spending will benefit them more than their opponent, and therefore, they do not sign The Pledge. A private ordering model, which does not require agreement between rival candidates, could be better suited to reduce Super PAC influence on the electoral process.

In this paper, we provide the first analysis of a market-based alternative to campaign finance reform. We analyze whether creating a new form of insurance, Super PAC insurance, could deter Super PACs from making expenditures. This Super PAC insurance model attempts to capture the deterrent value of The Pledge without requiring mutual agreement

among rival candidates. In a given district, one candidate may decide to purchase a policy, while the other declines. Outside Super PACs may be deterred from spending against an insured candidate, regardless of whether that candidate’s opponent also purchased an insurance policy. We begin by examining the relevant legal framework and assessing its practical constraints. We then empirically test the key assumptions using data from Congressional House elections from 2010 to 2020. Building on this, we simulate the mechanics of insurance in a campaign context and analyze the problem using a simple model.

Our results suggest that Super PAC insurance is a viable and potentially equilibrium outcome under realistic conditions. Legal barriers appear navigable, indicating that this approach may offer a path for campaign finance reform. Like The Pledge, Super PAC insurance represents a private-ordering, non-governmental solution to limiting outside influence in elections. Candidates would purchase policies from an insurance carrier, and when a Super PAC spends against an insured candidate, that spending would constitute an insurable event. The insurer would then pay out, potentially up to twice the predicted Super PAC expenditure, mirroring traditional insurance logic but with a deterrence twist. Applying the logic of “mutually assured destruction,” this framework aims to deter outside spending: if Super PACs know their expenditures will trigger offsetting counterattacks, they may refrain from intervening altogether. Investors would profit if premium revenues exceed expected losses and administrative costs. Broad adoption of Super PAC insurance could significantly reduce the influence of outside spending on American democracy.

We contribute to the literature by studying a novel alternative to campaign finance reform, namely private insurance against Super PACs, a unique mechanism that reshapes the strategic environment of campaign finance. We build on work examining the effects of independent expenditures and outside group influence on electoral outcomes (Dowling and Wichowsky 2015, Cox 2025, Hansen, Rocca, and Ortiz 2015, Abdul-Razzak, Prato, and Wolton 2020), and contribute to the literature on democratic accountability under asymmetric resource constraints (Ansolabehere, Figueiredo, and Snyder 2003). We also relate more broadly to the use of insurance markets to correct for market failures (Arrow 1963). By combining empirical analysis and legal feasibility, our paper is able to evaluate a market-based reform that operates within existing legal constraints.

The remainder of this paper proceeds as follows. In section 2, we analyze the institutional, legal, and business aspects of creating a market for Super PAC insurance.<sup>1</sup> In section 3, we estimate a variety of models predicting Super PAC spending. In section 4, we study the feasibility of insurance with a simulation. We conclude in section 5.

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<sup>1</sup>For further legal discussion, see Warshaw (2016) and Warshaw (2018).

## 2 The Business of Super PAC Insurance

Super PAC insurance allows candidates to protect themselves against Super PAC spending. The business model for Super PAC insurance can be viewed in five parts. First, the insurer must raise underwriting capital. Second, it must define insurable events. Third, it must determine premium pricing. Fourth, the insurer must sell policies to candidates. Finally, when an insurable event occurs, the insurer will make payouts on the policies.

### 2.1 Raising Underwriting Capital

All insurers need sufficient underwriting capital to backstop their policies. Super PACs will be deterred from spending against insured candidates if insurers can credibly pay out on their policies. Therefore, a Super PAC insurer must first fully underwrite the business.

The Super PAC market is likely ready for this type of investment. Currently, tens of millions of dollars are donated annually to political reform groups, including Unite America, Take Back Our Republic, RepresentUs, Common Cause, The Campaign Legal Center, Issue One, and the Brennan Center for Justice.<sup>2</sup> Venture capitalists Peter Thiel and Reid Hoffman are among the many affluent individuals who have contributed to reform efforts (Amy 2014). These nonprofit efforts have mainly been unsuccessful in reducing Super PACs' influence. In addition, donations to many of these groups are not tax-deductible.

By investing in Super PAC insurance, donors become investors in the same cause of campaign finance reform. These investors previously suffered guaranteed losses; with Super PAC insurance, they can reform democracy and generate a return. Like other impact investors, Super PAC insurance investors would likely hope to create “blended value” from their investment (Bugg-Levine and Emerson 2011). The twin goals of profit-making and deterring Super PAC spending are aligned. If the insurance company is profitable, it means it successfully deterred Super PAC spending.

### 2.2 Insurable Events Defined

A political expenditure will be considered an insurable event if: 1) a Super PAC spends money, 2) the FEC classifies the spending as an “independent expenditure” (11 C.F.R. § 100.16) or an “electioneering communication,” (11 C.F.R. § 100.29.) and 3) the aggregated

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<sup>2</sup>Based on these groups' most recent 990 tax returns, they received tens of millions in donations, specifically: Unite America (17.5 million, 501(c)(3); 9.5 million, 501(c)(4)), Take Back Our Republic (0.17 million, 501(c)(4)), RepresentUs (4.8 million, 501(c)(3); 2.1 million, 501(c)(4)), Common Cause (13.3 Million, 501(c)(3); 8.3 million, 501(c)(4)), the Campaign Legal Center (19.3 million, 501(c)(3)), Issue One (14.5 million, 501(c)(3); 1.1 million 501(c)(4)), and the Brennan Center for Justice (51.2 Million, 501(c)(3)).

amount spent is reported to the FEC.<sup>3</sup> Super PACs that report independent expenditures or electioneering communications aggregating over \$10,000 in a calendar year must report these expenditures within 48 hours (11 C.F.R. §§ 104.4(b)(2), 104.4(f)). Within 20 days of a federal election, committees spending over \$1,000 must disclose their expenditures within 24 hours (11 C.F.R. § 104.20(b)). If the Super PAC meets the above criteria, the political expenditure will be considered an insurable event.

## 2.3 Premium Pricing and Selling Point

All insurers must predict how much they expect to lose per customer. In the Super PAC market, a candidate's risk is based on the likelihood that a Super PAC will spend money attacking their candidacy or supporting their opponent. An insurer must predict how much will likely be spent against an insured candidate. Candidates who are more likely to have larger amounts spent against them will be charged proportionally larger premiums. Our analysis posits that Super PACs want to influence the electoral outcomes of the races where they spend money. This behavioral assumption is grounded in the growing literature on Super PACs (Cox 2025, Baker 2016). As we demonstrate later, Super PAC spending can be predicted with covariates. As a result, reasonable premiums can be calculated with the following formula adopted from Kunreuther, Pauly, and McMorrow (2013):  $\text{Premium} = \text{Expected Loss} / (1 - \text{Premium Loading Factor})$ . The loading factor comprises administrative, marketing, and sales costs, which often range from 20-30% (Dionne 2013).

The insurer should remain strictly nonpartisan and attempt to collect premiums from all Republican and Democratic Congressional primary winners. This is important both from a business model and branding perspective. When deciding whether to purchase an insurance policy, candidates must decide if they want to make an initial outlay of campaign funds in exchange for an insurance policy. Given candidates' concerns about Super PACs, many may be willing to purchase a policy. According to former Indiana Senator Evan Bayh, "the single greatest fear of any incumbent is that thirty days before an election, some anonymously funded Super PAC will drop \$1 million against him" (Lessig 2014). Under certain deterrence values of Super PAC insurance, candidates are largely insulated from Super PAC attacks. If the policy does not discourage outside spending, the candidate will receive a significant payout on their insurance policy.

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<sup>3</sup>The final requirements for insurable events are that the political expenditure is legally required to be reported to the FEC and the Super PAC complied and disclosed the expenditure.

## 2.4 Paying Out On The Policy

When an insurable event occurs, the insurance carrier will remit a payment based on the policy the candidate purchased. A policy will provide candidates with twice the amount of money the insurance carrier believed Super PACs would spend against the insured candidate. If an insurer expects Super PACs to spend \$50,000 against a candidate, it will pay a candidate up to \$100,000. This \$2:00:1:00 payout ratio is based on the success of The People’s Pledge. The Pledge deterred the vast majority of Super PAC spending in Massachusetts with a \$0.50:1.00 ratio (Creighton 2013). If fifty cents on the dollar deterred Super PAC spending, a \$2:00:1.00 ratio could deter even more Super PAC spending than The Pledge.<sup>4</sup>

Crucially, this \$2:00:1:00 payout to a candidate is an even larger figure when viewed in “candidate dollars.” Because of Federal Communications Commission (FCC) regulations, a dollar that a candidate controls is significantly more valuable than one controlled by a Super PAC. The FCC mandates that candidates be afforded the “lowest unit charge” from television stations. In contrast, stations have complete latitude to charge Super PACs for advertising. The average difference between the amounts of money spent ranges from 40% to 100% (Moshary 2014, Melissa 2015, Franklin Fowler, Ridout, and Franz 2016).

Owing to the FCC mandate, and assuming the FEC permits insurance payouts to be made directly to candidates, a nominal \$2.00:1:00 payout effectively yields the equivalent of a \$2.80-50.00:1.00 payout for TV advertising. Moreover, a dollar controlled by a candidate is operationally more valuable than a Super PAC dollar. A candidate has complete discretion over how to spend their campaign funds. A candidate likely knows their strengths and weaknesses better than Super PACs, which by law are prohibited from coordinating with candidates. As a result, a candidate is better positioned to make strategic spending decisions in their race than a Super PAC.<sup>5</sup>

## 2.5 Caveats

Before evaluating the empirical feasibility of Super PAC insurance, the question of whether a profitable scheme could be an equilibrium outcome must be answered. We describe a game-theoretic model for this environment. Our model shows that, under some assumptions, an

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<sup>4</sup>The amount of coverage in individual insurance policies will be capped to avoid exceeding the underwriting funds. Still, the insurer would likely want to make this soft and confidential. By reserving the right to spend beyond this cap on a case-by-case basis, the insurer safeguards against the possibility that a Super PAC attempts to spend excessively to intentionally force the insurer to reach the cap for a given candidate. Keeping the spending limit secret may deter a Super PAC from spending beyond the 2:00:1:00 payout.

<sup>5</sup>There is also the issue of potentially alienating grassroots donors when allying with Super PACs and their “mega-donors.” Furthermore, Super PAC effects are not necessarily large (Cox 2025), suggesting that candidates may have a strategic reason to reject Super PAC support.

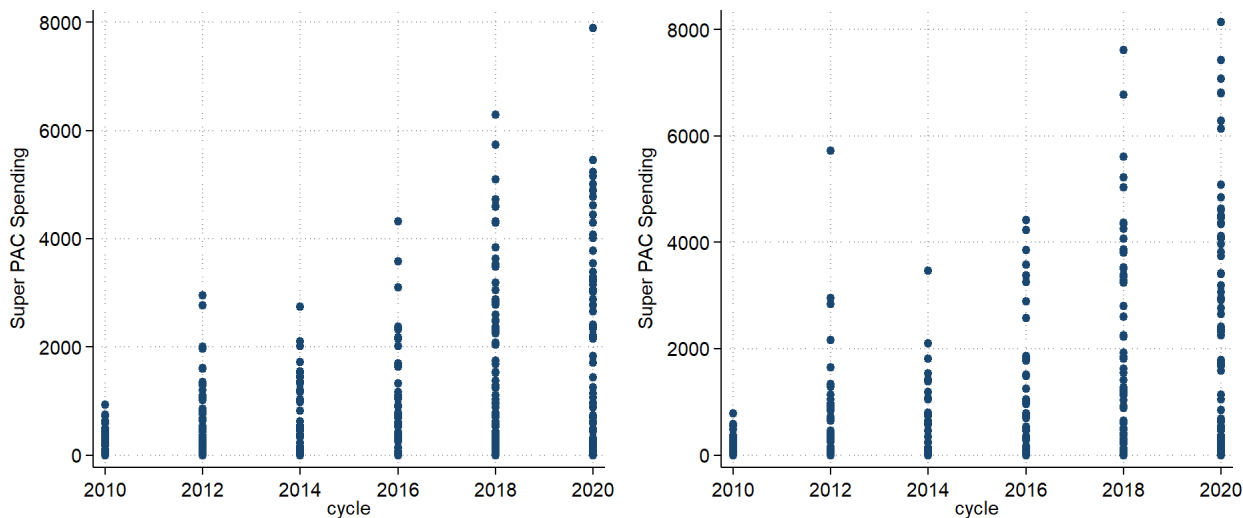
insurer can profitably offer a contract that deters Super PAC spending. See Appendix A.

Super PAC insurance likely would face strategic and legal challenges, and we evaluate whether these concerns are surmountable. Super PACs might attempt to bankrupt the insurer through excessive last-minute spending, but a large underwriting pool could deter such attacks by signaling financial strength. Many voters now cast early ballots, limiting the effectiveness of late expenditures. Moreover, rational donors may be reluctant to escalate spending if the costs outweigh the benefits, especially when insurance payouts can be anticipated and leveraged. Also, the absence of Super PAC insurance to date reflects institutional frictions; major insurers lack experience in political expenditure markets, are wary of reputational risk, and may face high entry costs. Legally, insurance payouts are likely to be treated as services, not contributions, provided they are priced at the “usual and normal charge” for the service. Precedent from the FEC supports this interpretation, and recent regulatory deadlock further reduces the risk of legal pushback. See Appendix B for full discussions of these considerations.

### 3 Predicting Super PAC Spending

As previously discussed, the ability of insurers to reasonably forecast the risk that a customer will incur a payable event is of paramount importance in crafting an effective insurance market. We begin with our model for Super PAC spending in House elections. Like car accidents, home fires, or residential burglaries, the entrance of a Super PAC into a Congressional race is both a rare and costly event.

Figure 1: Super PAC Spending Distribution (Dem/Rep)



The left/right graph shows Democratic and Republican Super PAC spending (in thousands).

Though a significant majority of Congressional elections saw no Super PAC spending, the immense expenditures in select races have steadily driven up the average across all races since Super PACs emerged after *Citizens United*. While the average Super PAC expenditure in a 2010 House race stood at around \$126,000 (in races in which Super PACs spent), by 2020 that number had climbed to around \$406,000. As the amount of money injected into American politics by outside spending groups grows, the price of being caught unprepared grows precipitously each election.

Predicting how much an unfriendly Super PAC will spend either supporting one’s opponent or attacking a candidate has primarily been a matter of guesswork for campaigns. Campaign consultants typically use past Super PAC spending against a candidate or against similar candidates as a barometer for how much to expect. “In my experience working on competitive Congressional, Senatorial, and Presidential campaigns, anticipating Super PAC spending in any particular race is extremely difficult. Our assessments are based partly on historical precedent - looking at Super PAC spending in previous election cycles with similar race dynamics - but more than anything, our decisions are made on gut feeling,” said Brad Elkins, a senior political consultant for swing-state and high-profile Democratic candidates (Author interview, 2025).<sup>6</sup> This ad-hoc method may overlook several significant predictors that more accurately forecast the magnitude of Super PAC spending against a candidate.

We use a variety of regressions to model adversarial Super PAC spending at the candidate level. We analyze contested U.S. House elections from 2010-2020, as compiled by Cox (2025). We define oppositional Super PAC spending for candidate  $i$  in election  $t$ , denoted by  $Y_{it}$ , as the total Super PAC expenditures that either explicitly oppose candidate  $i$  or support their opponent in the same race. These data come from FEC reports on Congressional elections. Our predictors for  $Y_{it}$  include lagged spending (both in levels and logs) by candidates, parties, PACs, and Super PACs, along with a set of exogenous covariates including district income, unemployment, advertising prices, and other controls summarized in Table 1. We also include year fixed effects, state fixed effects, and Cook Political Report’s competitiveness ratings.<sup>7</sup>

The baseline linear specification is  $Y_{it} = X_{it}'\beta + \varepsilon_{it}$ , where  $X_{it}$  denotes the vector of predictors. Given the highly skewed and zero-inflated nature of  $Y_{it}$ , we also explore alternative functional forms. First, we consider a log-linear relationship with  $\log(1 + Y_{it})$  as the dependent variable.<sup>8</sup> Second, to model just whether a Super PAC spends in a race, we use a linear

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<sup>6</sup>Mike Shannon, a strategist, and former director of media buying for George W. Bush’s campaign concurred, “[s]uper PAC spending feels a bit like hurricane season in a coastal town. You know some big Super PACs are developing out there, but you’re not sure if your campaign will be hit by one or how heavy the financial downpour will be or whether a gale force wind will knock you out” (Author interview, 2025).

<sup>7</sup>We also consider candidate policy platforms and use the measure from Cox (2025), which combines existing measures with text-based policy information from the internet. Model fit is similar.

<sup>8</sup>An alternative is the negative binomial regression model, which generalizes the Poisson model to allow

Table 1: General Election Control Variable Statistics

Variable	Mean	Std. Dev.	Min.	Max.
Republican	0.501	0.5	0	1
Incumbent	0.458	0.498	0	1
Contested Primary	0.888	0.316	0	1
Scaled Ad Cost Per Committee	1.003	0.939	0.048	5.695
Lagged Republican Presidential Votes	0.488	0.155	0.03	0.825
Lagged Incumbent Votes	0.570	0.255	0	1
Number Of Senate Candidates (in state)	7.934	7.65	0	30
Governor Same Party (as candidate)	0.497	0.5	0	1
Scaled Cook's Competitiveness	3.268	2.695	0	6
District Male Percentage	0.491	0.01	0.457	0.537
District White Percentage	0.755	0.173	0.16	0.968
District Unemployed Rate	6.316	2.295	2.317	16.824
District High-School Graduation Rate	29.207	6.081	11.2	46.757
District Median Age	40.24	3.452	30.455	51.269
District Income	8.051	1.427	5.267	15.369
District Election Day Precipitation	0.102	0.135	0	1.052
N	4183			

This table shows the summary statistics for the non-spending controls. Spending by each committee (scaled by mean advertising price), district income, district unemployment, and precipitation are transformed as  $(X/1000)^{0.5}$ .

probability model with dependent variable  $\mathbb{1}\{Y_{it} > 0\}$ .

Next, we estimate a Cragg hurdle model (Cragg 1971) to explicitly account for the two-stage decision process implicit in Super PAC spending: whether to spend at all, and how much to spend conditional on spending. This model is appropriate in our context where the dependent variable is non-negative and has an excess mass at zero, but no upper bound, allowing us to separate the intensive and extensive margins for spending. The binary selection variable  $s_{it}$  equals 1 if positive spending is observed ( $Y_{it} = \mathbf{X}'_{it}\boldsymbol{\beta} + \varepsilon_{it} > 0$ ) and 0 otherwise. The  $\mathbf{X}_{it}$  are covariates explaining the decision to spend and  $\varepsilon_{it} \sim \mathcal{N}(0, 1)$  is a standard normal error term. Conditional on  $s_{it} = 1$ , the amount of Super PAC spending  $Y_{it}$  is modeled as a continuous latent variable  $Y_{it}^*$  observed only if  $s_{it} = 1$ , with a linear index with separable error  $\mathbf{X}'_{it}\boldsymbol{\beta} + \varepsilon_{it}$  and link function  $g(\cdot)$ :  $Y_{it}^* = g(\mathbf{X}'_{it}\boldsymbol{\beta} + u_{it})$ . We consider both linear and exponential link functions. The model is estimated with maximum likelihood.<sup>9</sup>

In addition to parametric models, we implement two machine learning methods: random forest regression and lasso regularization. The random forest aggregates predictions from an ensemble of regression trees, each trained on a bootstrap sample of the data and a random

for overdispersion. Results are similar with a fit of 0.8.

<sup>9</sup>The log-likelihood function with a lower limit at 0 is  $\ln \mathcal{L} = \sum_{i=1}^n [\mathbb{1}(Y_{it} = 0) \log \Phi(-\mathbf{X}'_{it}\boldsymbol{\gamma}) + \mathbb{1}(Y_{it} > 0) \log \{\phi(\frac{Y_{it} - \mathbf{X}'_{it}\boldsymbol{\beta}}{\sigma})\} + \mathbb{1}(Y_{it} > 0) \log \{1 - \Phi(\mathbf{X}'_{it}\boldsymbol{\gamma})\}]$ , where  $\Phi(\cdot)$  and  $\phi(\cdot)$  are the standard normal cdf and pdf respectively, and  $\sigma$  is the standard deviation of the latent positive outcome distribution.

subset of predictors at each split. This method captures nonlinearities and interactions without requiring a pre-specified functional form.<sup>10</sup> The lasso minimizes the sum of squared errors (with a linear index) subject to a penalty on the coefficients, which acts as variable selection (by shrinking some coefficients to zero) and mitigates overfitting.<sup>11</sup>

Results comparing all models are in Table 2 with both in-sample and out-of-sample fit. We find that spending can be accurately predicted in both the estimation and validation samples. The correlation between observed and predicted spending for the purely linear model is 0.66, 0.78 for log-linear, and 0.65 for the linear probability model. For the Cragg hurdle model, we consider the log form of spending and model fit for the linear and exponential models are 80% and 68%, respectively. The random forest performs the best with a fit of 0.98, and lasso has a fit of 0.78. All of these models are substantial improvements over simplistic heuristics used in political consulting of taking lagged spending and simply shifting it up by some fixed factor, such as 25-50% (Author interview, 2025): this naive prediction only correlates with spending at 33%. This demonstrates that standard econometric models with publicly-available data are able to fit Super PAC spending well.

Table 2: Predictive Performance of Super PAC Spending Models

Model	In-sample Model Fit	Out-sample Model Fit
Linear Model (Spending)	0.65	0.65
Linear Model (Log Spending)	0.78	0.78
Linear Model (Any Spending)	0.65	0.65
Cragg Hurdle (Log, Linear)	0.80	0.79
Cragg Hurdle (Log, Exponential)	0.68	0.66
Lasso	0.78	0.78
Random Forest	0.98	0.57

This table shows model fit (correlation between observed and predicted spending) for the various models. In/out sample is 80/20 at random.

## 4 Insurance Feasibility Simulation

To evaluate the pricing and feasibility of Super PAC insurance, we calibrate key parameters using empirical estimates and plausible assumptions. First, we estimate the baseline

<sup>10</sup>Formally, the predicted spending for observation  $it$  is  $\hat{Y}_{it}^{\text{RF}} = \frac{1}{B} \sum_{b=1}^B T_b(\mathbf{X}_{it})$ , where  $T_b(\cdot)$  denotes the prediction from the  $b$ -th regression tree; there are  $B$  total trees.

<sup>11</sup>The objective is  $\arg \min_{\beta} \left\{ \sum_{i=1}^n (Y_{it} - \mathbf{X}'_{it}\beta)^2 + \lambda \sum_{j=1}^p |\beta_j| \right\}$ , where  $\lambda \geq 0$  is a turning parameter.

probability of a Super PAC attack in House races to be 0.66. When insurance is offered, we suppose that deterrence reduces the likelihood of entry by 80% (which we relax below), implying a probability deterrence factor of 0.2 and an adjusted entry probability of 0.132.

If a Super PAC does enter, the data show it spends on average \$650,000. We allow for the possibility that insurance may also reduce spending, but in this baseline calibration, we assume full exposure. The insurer agrees to pay out a coverage multiple of 2, meaning the insured candidate receives \$2 for every dollar spent against them. Without any deterrence, this implies an expected loss per attack of \$1,300,000 and an overall expected loss of \$171,600 per policy sold. Applying a premium markup of 1.3, the resulting premium charged to the candidate is \$223,080.

The sales pitch to an insurer for this could be summarized as follows: the upfront premium is \$223,080 with potential coverage up to \$1,300,000. The average expected profit per policy sold is \$51,480. If multiple candidates purchase the contract, such as 70% of general election candidates (or equivalently 25% of primary candidates), then the total profit is \$31,351,320. Table 3 shows projected insurer profits across different levels of market penetration and deterrence rates. Profits reflect insurance premium net of expected underwriting losses.

Table 3: Sensitivity Analysis: Premium and Profit Estimates

Deterrence	Metric	10% Penetration	50% Penetration	70% Penetration
0%	Avg. Premium	1,115,400	1,115,400	1,115,400
	Profit	22,393,800	111,969,000	156,756,600
50%	Avg. Premium	557,700	557,700	557,700
	Profit	11,196,900	55,984,500	78,378,300
80%	Avg. Premium	223,080	223,080	223,080
	Profit	4,478,760	22,393,800	31,351,320

This table shows premiums and profits at different simulated deterrence and market penetration values.

Given the novelty of the insurance product, the table above assumes a loading factor of 30%, the highest value of the loading factor range discussed above. The table assumes there are 870 potential total candidates or customers. This may slightly overestimate the number of total candidates, as there may be only one candidate, particularly in non-competitive races. Finally, the table above assumes the insurer will pay out a 2:00-1:00 payout ratio. Given that candidate dollars are significantly more valuable than Super PAC dollars, the insurer may be able to successfully deter Super PACs with a 1.5:1:00 payout ratio. This would make the premium pricing considerably more attractive than under the 2:00-1:00 payout ratio. For example, under a 1.5:1:00 payout ratio, an average policy would cost 25% less or \$167,310 under the 80% deterrence scenario.

The insurance model is only profitable if Super PACs are largely deterred from spending.

As shown in the table above, if the insurance company does not deter spending, the insurer would have to set premiums at a cost-prohibitive price to make a profit. If the insurer successfully deters Super PAC spending, premiums can be priced at a reasonable level, and the insurer will be profitable. To price the insurance policies at affordable levels, the insurer will likely need to assume that the product will, in fact, deter Super PACs from spending against insured candidates.

## 5 Conclusion

In the wake of the Watergate scandal, Congress passed the first modern limits on the financing of campaigns. In the ensuing forty years, the Supreme Court has repeatedly struck down Congress’s attempts to regulate money and politics (*Buckley v. Valeo*, *Citizens United v. FEC*, *McCutcheon v. FEC*). The current Court’s broad interpretation of the First Amendment makes it unlikely this trend will reverse anytime soon. Therefore, those interested in reform must turn to alternative means of reducing the influence of money on campaigns.

As previously discussed, private ordering solutions successfully deterred Super PACs from entering a pivotal Senate race in Massachusetts. We argue that for private ordering solutions to become a widespread model, candidates must be able to unilaterally elect to invest in deterring Super PAC spending. Super PAC insurance potentially meets this need for a unilateral private ordering model. The insurance business model could attract private investment and effectively deter Super PAC spending.

For the Super PAC insurance business model to be viable, an insurer must be able to predict its expected loss per candidate with confidence. The forecasting described in this paper demonstrates that Super PAC spending can be predicted. Our methodology significantly improves upon campaigns’ current ad-hoc guesswork. Future avenues for research include refining the method and evaluating the performance of insurers who pursue this contract.

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## A Model

Consider a candidate (Candidate A) running against an opponent (Candidate B). A Super PAC may enter the race and spend an amount  $s \geq 0$  in support of Candidate B. Candidate A has the option to purchase an insurance contract that counteracts Super PAC spending. The probability that Candidate A wins the election is parameterized with a contest:

$$\Pr(\text{A wins}) = \frac{x}{x + y},$$

where  $x$  and  $y$  represent the effective spending of Candidate A and Candidate B, respectively. Candidate A has baseline spending  $x_0$ , and Candidate B has baseline spending  $y_0$ . If the Super PAC spends  $s$  in support of B, then  $y = y_0 + s$ . If insurance is activated and matches the spending, Candidate A's effective spending becomes  $x = x_0 + L$  for coverage limit  $L$ .

An insurer offers a contract with premium  $P$  and matching coverage up to limit  $L$ . If the Super PAC spends  $s \leq L$ , the insurer contributes  $s$  to Candidate A's campaign. If the Super PAC spends nothing, the insurer makes no payout.

Candidate A values winning the election at  $V$ . If A is uninsured and the Super PAC spends  $s^*$ , then their expected utility is:

$$U_A^{\text{no-ins}} = \frac{x_0}{x_0 + y_0 + s^*} V.$$

If A is insured and this deters the Super PAC from entering ( $s = 0$ ), then:

$$U_A^{\text{ins}} = \frac{x_0}{x_0 + y_0} V - P.$$

The Super PAC derives utility  $W$  from B winning. If it spends  $s$ , then its utility is:

$$U_P(s) = \left( \frac{y_0 + s}{x_0 + y_0 + 2s} \right) W - s.$$

And if it does not spend, it gets  $U_P(0) = \left( \frac{y_0}{x_0 + y_0} \right) W$ . Finally, the insurer's profit is:

$$\Pi = P - \mathbb{E}[\text{payout}].$$

If deterrence succeeds and the Super PAC stays out, the payout is zero.

**Proposition 1.** *Let  $s^*$  denote the Super PAC's optimal spending if Candidate A is uninsured:*

$$s^* = \arg \max_{s \geq 0} \left\{ \frac{y_0 + s}{x_0 + y_0 + s} W - s \right\}.$$

*Suppose: (i) the insurer can credibly match spending up to  $L \geq s^*$ ; (ii) A's utility with insurance and deterrence exceeds that without:*

$$\frac{x_0}{x_0 + y_0} V - P \geq \frac{x_0}{x_0 + y_0 + s^*} V;$$

and (iii) the Super PAC prefers staying out when candidate is insured:

$$\frac{y_0}{x_0 + y_0}W \geq \max_{s \geq 0} \left\{ \frac{y_0 + s}{x_0 + y_0 + 2s}W - s \right\}.$$

Then a pure strategy equilibrium exists where A buys insurance, the Super PAC stays out, and the insurer earns profit  $P$ .

*Proof.* Candidate A prefers insurance by (ii). Given insurance, the Super PAC’s best response is  $s = 0$  by (iii), as matched spending eliminates its gain from entry. The insurer credibly commits to coverage by (i), and earns profit  $P > 0$  with no payout. Since no player benefits (strictly) from deviating, this strategy profile is a Nash equilibrium.  $\square$

## B Concerns About the Insurance Model

### B.1 Attempted Bankruptcy of the Insurer

Incumbent Super PACs, from either party, may try to strategically bankrupt the insurer. Super PAC insurance would be an existential threat to current Super PACs. The donors and consultants who profit from the existence of Super PACs may wish to spend extra money to crush the insurer with liabilities. To deal with this, Super PAC insurance must raise a tremendous amount of capital. The underwriting received from investors serves as a war chest, a deterrence mechanism itself. The more money the insurer has to respond to bankruptcy attempts, the less likely it seems that Super PACs will attack in the first place. This means the more money invested in underwriting, the less likely insurable events will occur, resulting in higher profits for investors.

While the bankruptcy threat is real, Super PACs do not necessarily have a sufficient amount of additional funds to tap. Even large donors do not like contributing to Super PACs (Gold 2015). Private equity executive, Bill Kunkler, explains: “I do not like the Super PACs. I think it is the lowest return on investment. I want to support the presumptive candidate, and that’s the vehicle. We have got to reform how our political system is being financed. It’s just crazy” (Gold 2015). Affluent individuals are likely making a cost-benefit determination that currently directs them to Super PACs as the best way to support their preferred nominees. However, if additional costs are added, they may forgo large donations altogether. Some donors may not believe that Super PACs yield a significant return on investment. If that cost was raised even further, they might not give at all.

The Pledge demonstrated that deterrence can be effective and that most actors in the ecosystem will act rationally. In Massachusetts, outside groups largely stayed out of the race because they knew that their spending would actually work to the detriment of their preferred candidate (Sitaraman 2014). Several of the largest current Super PACs existed during the 2012 Massachusetts race, yet they opted essentially to stay uninvolved (Creighton 2013). Super PAC insurance spending would similarly hurt the preferred candidates of these groups. While it is certainly possible that these groups will respond differently to a nearly identical incentive structure years later, there is no evidence to confirm this outcome.

## B.2 Non-existence of Super PAC Insurance

Some may argue that if the Super PAC insurance business model were so profitable, why has an insurer not already created it in the fifteen years since the *Citizens United* decision? There are at least three reasons why such an insurance product may not yet exist. First, major insurers are accustomed to insuring in distinct verticals, such as healthcare, natural disasters, or car accidents. They lack the actuarial experience in the political market. Even exotic or newer insurance products, such as cybersecurity insurance, follow more traditional actuarial practices. Super PAC insurance is distinguishable from other types of insurance because it is the only type of insurance that can reduce the likelihood that an insurable event occurs. Buying more flood insurance does not correspond to a reduction in floods, but with a large war chest, Super PAC insurance could deter Super PACs from attacking insured candidates entirely. Incumbent insurers likely would want a startup venture to prove deterrence before entering this market.

Second, some insurers may also be concerned about political risk. While the Super PAC insurance product is strictly nonpartisan, it may inadvertently benefit one party more than the other. If one party benefits more, the insurer risks looking as if it supported that party. This could be a risk to its other business products. Finally, Super PAC insurance is capital-intensive. Even testing the viability of Super PAC insurance in a state or local market would be an expensive endeavor. For example, according to the National Institute on Money in Politics, more than \$12.6 million was spent on independent spending in Alaska state races in 2022 (National Institute on Money in Politics 2022). Therefore, to be sufficiently capitalized in Alaska state races alone, a start-up insurer would need to raise at least \$25.2 million.

## B.3 Spending In the Last Five Days

Incumbent Super PACs may concentrate their spending in the few days prior to election day, when it will be more challenging for the insurer to pay out insured candidates promptly enough to impact the election. This critique largely ignores the fact that over half of the population now votes ahead of Election Day (Project 2024). An even larger percentage of the population votes early in targeted swing states, where Super PAC spending is most pronounced. Given these voting patterns, Super PACs must spend earlier than election day if they hope to influence over half of all voters. Additionally, if a candidate knows they will receive an insurance payout, candidates can and likely would incur debt to respond to a last-minute Super PAC spending.

## B.4 The Legality of Super PAC Insurance

The salient election law issue for Super PAC insurance is whether the FEC considers this insurance payout a service or a contribution. The FEC draws a sharp distinction between contributions and services.<sup>12</sup> Corporations are banned from making contributions to federal candidates' campaign committees. The FEC would likely treat the payout on an insurance policy as a permitted service, not an impermissible corporate contribution.

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<sup>12</sup>Citizens Guide, Fed. Election Comm'n, <http://www.fec.gov/pages/brochures/citizens.shtml>

Candidates may expend campaign funds to procure services for their campaigns. Such services range from direct mail to political consulting and liability insurance. The FEC defines contributions as “any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value.”<sup>13</sup> When the FEC assess if a corporate payout of funds to a candidate is a “contribution” it evaluates if the corporation is providing a payment in the “ordinary course of business.” A payout is made in the ordinary course of business if the candidate paid the corporation the “usual and normal charge” for the service.<sup>14</sup> A charge is usual and normal if the cost is set “at a commercially reasonable rate.”<sup>15</sup> In the case of insurance, the “service” provided is the insurance policy and subsequent payout on the policy if an insurable event occurs.

The FEC allowed the National Conservative Political Action Committee (NCPAC) to obtain a key person insurance policy<sup>16</sup> on their chairman’s life.<sup>17</sup> If their chairman died, NCPAC would receive payment from their insurance carrier. The FEC concluded that such a payout “would not be viewed as a contribution to NCPAC from the insurer.” Moreover, the committee could use “proceeds from the policy...for any lawful purpose” (Warshaw 2016). The FEC stated that such a policy is legal as long as the insurer provides the policy at a rate based on market factors. Super PAC insurance would essentially mimic the structure of the NCPAC policy.<sup>18</sup> Super PAC insurance would likely be treated as a new form of insurance coverage that campaigns currently purchase. Campaigns already purchase liability insurance (Staff 2007). As such, the FEC will likely treat a payout from Super PAC insurance to a candidate as a legally permitted service, rather than a donation.

If the FEC concluded that the flow of funds from the Super PAC insurance company was an impermissible corporate contribution to the purchasing candidate, it would greatly diminish the attractiveness of the Super PAC insurance model. The insurer would have to form its own Super PAC and run its own independent expenditures supporting its insured clients (Warshaw 2016). While technically feasible and legally permissible, running independent expenditure campaigns is outside the core competency of most insurers. Additionally, as discussed above, the insurer would *not* be eligible for the lowest unit charge discount, making the dollars it spends less valuable than candidate dollars.

However, the current turmoil at the FEC makes it unlikely that the FEC would conclude that the insurer’s remittance of funds would constitute an impermissible corporate contribution. The FEC is currently unable to enforce the law (Piper 2025), and the Trump Administration informed the Supreme Court that it will not defend parts of the Federal Election Campaign Act.<sup>19</sup> Given this deregulatory trend, it seems even less likely that the FEC would consider a payout from insurance to a candidate a donation.

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<sup>13</sup>52 U.S.C. §30118(b) (1976).

<sup>14</sup>FEC, Advisory Op. 2014-09 (Aug. 14, 2014), <https://saos.fec.gov/saos/>

<sup>15</sup>11 CFR 100.52(d)(2).

<sup>16</sup>A key person insurance policy provides a company with a cash benefit if a crucial team member dies.

<sup>17</sup>FEC, Advisory Op. 1985-34 (Nov. 22, 1985).

<sup>18</sup>Premium pricing would be based on business factors, not political ones. The insurer would not favor one party or candidate over another. It would not provide discounts based on political preference.

<sup>19</sup>National Republican Senatorial Committee et al. v. FEC et al., Brief for the Respondents on Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit, No. 24-621.