



NAMES IN THE NEWS: DON L. BLANKENSHIP

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Recently, the West Virginia Supreme Court decided a controversial case involving Massey Energy, a large coal company based in Virginia with operations in Kentucky, Virginia and West Virginia. Massey's chief executive officer, Don L. Blankenship, is a potent player in the industry and in West Virginia's political arena. Blankenship contributed nearly \$2.6 million of the \$2.8 million given by the coal industry to independent expenditure committees in 2004¹ and spread another \$151,000 to West Virginia candidates and committees since 2000. The contributions to independent expenditure committees — mainly to a 527 committee named And For the Sake of the Kids — helped Republican challenger Brent Benjamin oust then-sitting justice Warren McGraw, a Democrat.²

DON L. BLANKENSHIP CONTRIBUTIONS IN WEST VIRGINIA, 2000-2006*

RECIPIENT TYPE	TOTAL
Independent Expenditure Committee	\$2,562,500
State House Candidates	\$116,500
State Senate Candidates	\$26,500
Supreme Court Candidates	\$3,000
Gubernatorial Candidates	\$2,000
Attorney General Candidates	\$1,000
Party Committees	\$1,000
Secretary of State Candidates	\$1,000
TOTAL	\$2,713,500

* The Institute is still collecting data for the 2006 and figures might change slightly.

Massey Energy itself does contribute to West Virginia politics, but not as generously as its CEO. Massey gave \$51,750 to state candidates since 2000, with only \$2,500 going to Supreme Court candidates. Candidates for the state House received \$27,700, while state Senate contenders received \$17,050.

BACKGROUND

In November 2007, the West Virginia Supreme Court voted 3-2 to overturn a 10-year-old lower court judgment against Massey Energy.³ The decision soon became the latest in a tangle of related court battles centering around Blankenship and his political contributions. Massey estimates it could face at least a dozen appeals to the West Virginia Supreme Court if all cases pending against it in lower courts go forward.⁴ Massey also sued the West Virginia Supreme Court in a federal court to dispute the state court's recusal policy.⁵ Although he was not named as a defendant, the case centered around Justice Larry Starcher and negative statements he made earlier about

¹ Rachel Weiss, "Fringe Tactics," *National Institute on Money in State Politics*, Aug. 25, 2005, p. 5.

² So-called 527 committees are named for a section of the IRS tax code under which they form. They are nonprofit groups whose purpose is primarily political. They report contributions and expenditures to the IRS and file an annual Form 990.

³ Len Boselovic, "W.Va. Chief Justice Accused of Bias," *Pittsburgh Post-Gazette*, Jan. 15, 2008, available from <http://www.postgazette.com/pg/08015/849318-28.stm>, accessed Jan. 18, 2008.

⁴ Lawrence Messina, "Massey V. W.Va. Court Suit Continues," *Associated Press*, Oct. 29, 2007.

⁵ *Ibid.*

Blankenship and his involvement in the 2004 Supreme Court race. Starcher refused to step aside and voted in favor of upholding the lower court's judgment against Massey.⁶

Two justices who voted to overturn the lower court verdict were also asked by plaintiffs in the case to recuse themselves. Before the Supreme Court heard the appeal, Hugh Caperton and his coal-mining company, Harmon Mining, who brought the original case against Massey, requested Justice Benjamin recuse himself from the case in light of the \$2.6 million Blankenship used to bankroll a negative campaign against Benjamin's opponent in his 2004 election. Benjamin refused and later voted with the majority to overturn the ruling against Blankenship's company.⁷

After the Supreme Court's November ruling, pictures filed with the court depicted Chief Justice Elliot Maynard on vacation in Monaco in 2006 with Blankenship.⁸ Maynard had earlier been asked to step down from the case by the plaintiffs and refused.⁹ Days after the pictures appeared, he recused himself from the case. The court will hear a motion to reconsider the appeal later this week and plaintiffs have renewed calls for Justice Benjamin, himself the recipient of a \$1,000 contribution in 2004 from Blankenship, to step down from the appeal.¹⁰

Blankenship also contributed \$1,000 to Jim Rowe, a primary challenger to then-Justice McGraw, whom Benjamin defeated in the 2004 general election. Evan Jenkins, another candidate who lost in a primary race, received \$1,000 in 2000 from Blankenship.

BLANKENSHIP GIVING TO STATE CANDIDATES

Blankenship also gives widely to state-level candidates in West Virginia. Since 2000, 70 state House candidates received contributions from him totaling more than \$116,000. The vast majority of the money went to Republicans: \$113,000 compared with the \$3,500 given to Democrats. The money was more evenly split between winners and losers. Winning candidates received only \$39,500, or 35 percent of the money given, while candidates who lost in the general election received \$76,000. A primary loser received \$1,000.

Nineteen state Senate candidates received \$26,500 from Blankenship. Again, Republicans benefited more than Democrats from Blankenship's largesse: \$23,000 compared to only \$3,500 for Democrats. The differences between winners and losers was less than for House candidates; winning Senate candidates received \$12,500 compared to the \$13,000 given to general-election losers.

Overall, Blankenship gave slightly more to legislative candidates challenging a current incumbent than to incumbents or candidates for open seats. Challengers received \$85,000 compared to the \$45,000 given to incumbents. Contestants for open seats gathered only \$13,000.

⁶ Lawrence Messina, "Massey V. W. Va. Court Suit Continues," *Associated Press*, Oct. 29, 2007.

⁷ Anna Sale, "Sup Court Hears Appeal in \$50 Million Verdict Against Massey," *West Virginia Public Broadcasting*, Oct. 11, 2007, available from www.wvpubcast.org/radio/newsroom/Masseyhearing1011.pdf, accessed Jan. 18, 2008 and Len Boselovic, "W. Va. Chief Justice Accused of Bias," *Pittsburgh Post-Gazette*, Jan. 15, 2008, available from <http://www.postgazette.com/pg/08015/849318-28.stm>, accessed Jan. 18, 2008.

⁸ Adam Liptak, "Motion Ties W. Virginia Justice to Coal Executive," *The New York Times*, Jan. 15, 2008, available from <http://www.nytimes.com/2008/01/15/us/15court.html?ex=1201064400&en=74b7724453256d61&ei=5070&emc=eta1>, accessed Jan. 18, 2008.

⁹ Lawrence Messina, "Judge Removes Himself from Massey Case," *Associated Press*, Jan. 18, 2008.

¹⁰ *Ibid.*

Two Republican gubernatorial candidates who lost in the general election received contributions from Blankenship. In 2000, Cecil Underwood collected \$1,000; in 2004, Monty Warner received the same amount.

The Republican Party of West Virginia was the only party committee in the state to receive money from Blankenship. The committee received \$1,000 in 2004.

THE COAL INDUSTRY WEIGHS IN

The coal industry has long been generous to West Virginia state-level candidates and political party committees. Since 2000, coal companies and their executives have given more than \$1.8 million to support local politicians and parties. The industry also channeled another \$2.8 million into independent expenditure committees active in the contentious Supreme Court election in 2004.¹¹

Since 2000, when the Institute first began comprehensive collection of state-level campaign-contribution data, the coal industry has given \$169,825 to Supreme Court candidates, \$96,500 of which went to three members of the current Supreme Court in West Virginia. Brent Benjamin, the challenger who ousted a sitting justice, Warren McGraw, in 2004, received 95 percent — or \$90,250 — of the money given to current justices.

Justice Robin Jean Davis received \$1,750 from individuals working for coal companies, while Justice Joseph Albright received \$3,500 from the industry. Court candidates in West Virginia are subject to a \$1,000 contribution limit.

Other West Virginia Supreme Court candidates receiving money from the coal industry and related individuals included:

- Evan Jenkins, a primary loser in 2000, who received \$23,900.
- Jim Rowe, who was defeated in the 2004 Democratic primary by Justice McGraw, received \$42,375.

¹¹ The Institute created a database of independent expenditures made to influence judicial races in 8 states in 2004. This figure comes from that database, which is the source for the Institute's report, *Fringe Tactics*.