

HEARTS & MINDS

*The untold story of how philanthropy
and the Civil Marriage Collaborative helped
America embrace marriage equality*





On June 26, 2015, history was made when the U.S. Supreme Court made marriage equality the law of the land.



There were many forces at work in this historic change: tenacious leaders and litigators, coalitions of diverse lesbian, gay, bisexual and transgender (LGBT) organizations, straight individual and organizational allies, elected officials, celebrities, and most important, hundreds of thousands of individuals, couples and families at the grassroots level.

Another force that played a critical but largely unknown role in all of this was philanthropy, especially the Civil Marriage Collaborative (CMC), a consortium of foundations that pooled and leveraged their resources and strategically aligned their grantmaking. Over an 11-year period, their investments of \$153 million enabled organizations in many states and at the national level to change hearts and minds on a massive scale – and ultimately help advance marriage equality.

In sharing this case study, our goal is to inform colleagues across the social justice philanthropy universe about lessons learned from philanthropy's and the CMC's role in advancing marriage equality, in the hopes that such insights can assist in shaping future successful social change efforts in other equally pressing arenas.

How it all started

May 1970
Baker and McConnell denied marriage license in Minnesota.

1991
Lawsuit filed in Hawaii by three same-sex couples.



1993
Hawaii Supreme Court rules that denying marriage to same-sex couples was unconstitutional.



September 1996
President Clinton signs DOMA.

The battle for marriage equality began on May 18, 1970, when a Minnesota couple, Richard Baker and James Michael McConnell, unsuccessfully sought a marriage license at the Hennepin County clerk's office. The case was litigated up to the U.S. Supreme Court, which refused to even hear it on its merits. The issue lay largely



Baker and McConnell applying for marriage license in Hennepin County, MN.

dormant for two decades with negligible attention from LGBT organizations or funders. It gained momentum, however, in the early 1990s, when a Hawaii court found that the state could not prove that denying marriage to same-sex couples furthered a compelling state interest, the standard set by the Hawaii Supreme Court.

The decision (overturned in 1998 by an unprecedented state constitutional referendum that allowed the state legislature to "restrict marriage to opposite-sex couples") sent shockwaves across the country. In the face of feverish, anti-equality rhetoric that soon all states would have to recognize marriages performed in Hawaii, Congress passed and President Clinton signed the so-called Defense of Marriage Act in 1996. The

measure defined marriage as a union between a man and a woman and prohibited the federal government from recognizing same-sex marriages or extending to gay and lesbian couples any of the more than 1,100 federal rights and benefits associated with marriage.

The Defense of Marriage Act did not, however, kill the marriage equality movement. In 2000, following a wrenching public debate, Vermont created "civil unions," extending to same-sex couples all of the rights and responsibilities given to straight couples under state law. The next year, Evan Wolfson, who had been co-counsel in the 1993 Hawaii case, received the first-ever marriage equality grant from the Evelyn and Walter Haas, Jr. Fund in San Francisco to create Freedom to Marry, the organization that would become the engine of the marriage equality movement.

In late 2003, the movement notched its most important victory yet: A ruling by the highest court in Massachusetts that the state's ban on same-sex marriage was unconstitutional. The justices gave the state legislature 180 days to update the Bay State's laws to conform to the ruling.

This watershed moment triggered another media and political firestorm akin to the post-Hawaii reaction.

2000
Vermont approves
civil unions.



Marriage equality supporters mounted a successful campaign to keep the Massachusetts legislature from putting a constitutional amendment banning same-sex marriage on the ballot.

November 2003
Massachusetts's high court finds ban on
same-sex marriage unconstitutional.

Suddenly, “gay marriage” was in the headlines coast-to-coast. In his 2004 State of the Union Address, President George W. Bush called for amending the U.S. Constitution to define marriage as the union between a man and a woman. Other forces opposed to marriage equality – and to the entire LGBT civil rights agenda in general – promised to put similar constitutional amendments on the 2004 ballots in more than a dozen states.

It was clear to anyone with a working knowledge of the LGBT movement that it did not have the financial or operational capacity to confront this multi-state onslaught and mount the larger public education, policy advocacy and litigation effort to hold onto victories in the courts and see them implemented, let alone push marriage equality over the finish line nationally. In retrospect, LGBT groups and allied civil rights organizations did not know how to communicate effectively with elected officials and policymakers, or the general public, about the importance of the freedom to marry and about how recognizing this right for same-sex couples would not harm others.

This was the context in which a handful of foundations came together in 2004 to create the Civil Marriage Collaborative, housed at and staffed by the Proteus Fund. Over the next 11 years, this unique

collaborative and its partners would bring a total of \$153 million to build and strengthen a broad and diverse grassroots constituency and powerful public education apparatus to advance the marriage equality movement. Just as important, the CMC and its funders would play a critical role in helping the LGBT movement develop, coalesce around and pursue a shared strategy to secure the freedom to marry state-by-state and then nationwide.

“In the climate of the early 2000s, there was a collective realization that one good legal argument made in front of an open-minded judge, even if successful, wasn’t enough,” said Paul Di Donato, director of the CMC.

“And the only way to achieve and defend a marriage equality victory nationwide was to take on the biggest challenge that was out there: changing the hearts and minds of Americans about the rightful place of LGBT people in our society and, flowing from that, the compelling story of why marriage matters for us.”

A vision to win

2003
Freedom to Marry
launched by Evan Wolfson.

February 2004
President Bush endorses
constitutional ban on
same-sex marriage.

February 2004
San Francisco issues
marriage licenses
to same-sex couples.



There had never been a meeting like it.

In February 2005, inside the red-bricked headquarters of the Gill Foundation in Denver, 26 national LGBT leaders sat at a table. Ringed around them were representatives of the original funders of the Civil Marriage Collaborative: the David Bohnett Foundation, the Columbia Foundation, the Evelyn and Walter Haas, Jr. Fund, the Gill Foundation, the Open Society Institute, the Overbrook Foundation, and an anonymous funder.

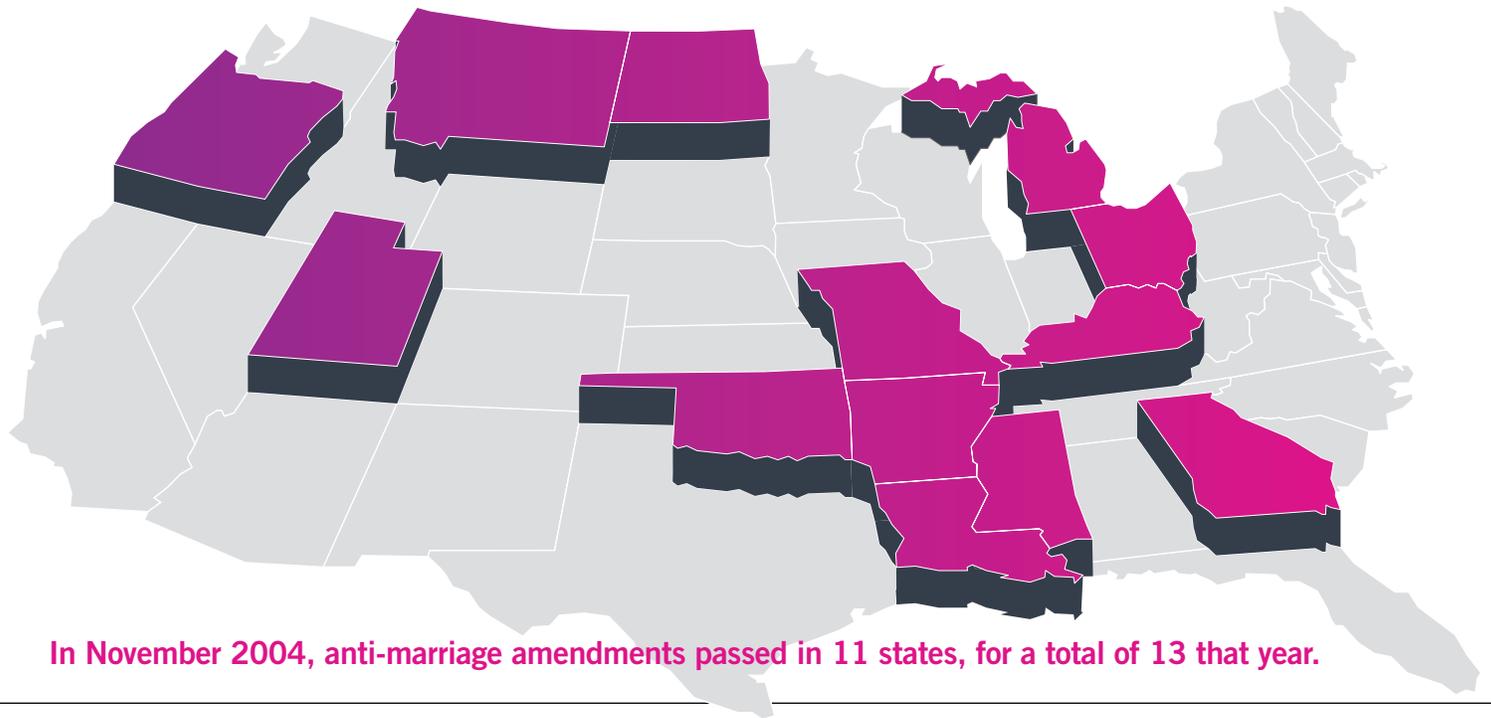
At first, the session was rather awkward – movement leaders were not used to putting all of their cards on the table, particularly with most of the movement’s major foundation funders looking on. But most everyone in the room believed that if everyone present, including the funders, did not collaborate on a deep level and come up with a common game plan, marriage equality was not likely to advance much further.

“This was actually the first time that the leading funders of the gay rights movement had organized a meeting of leading gay rights organizations,” said Matt Foreman, then executive director of the National Gay and Lesbian Task Force and now a senior program director at the Haas, Jr. Fund, the first foundation in America to invest in marriage equality. “It was an incredibly significant moment at an incredibly low time for the gay movement.”

Only months earlier, in November 2004, the LGBT movement had experienced gut-wrenching setbacks at the polls, just as the CMC, other key LGBT grantmakers and LGBT leaders had feared. Anti-marriage measures passed in 11 states, by an average margin of 70% to 30%. The election defeats marked something that had never happened on such a scale in our nation’s post-Civil War history: voters affirmatively taking away rights from a minority – rights that the minority had yet to even realize.

CMC FUNDING PARTNERS

- Anonymous Donors
- The Atlantic Philanthropies
- Calamus Foundation (DE)
- Calamus Foundation (NY)
- Columbia Foundation
- David Bohnett Foundation
- Evelyn and Walter Haas, Jr. Fund
- Ford Foundation
- Gill Foundation
- Horizons Foundation
- Johnson Family Foundation
- Kevin J. Mossier Foundation
- Open Society Foundations
- The Overbrook Foundation



In November 2004, anti-marriage amendments passed in 11 states, for a total of 13 that year.

“Perhaps these developments should not have been too surprising. Like other social justice efforts, marriage equality experienced early successes through litigation, but the movement was incapable of defending its wins in the court of public opinion,” said Di Donato, the CMC director. “Litigation is almost always one important piece of the puzzle, but there are other, equally critical elements: from mobilizing support from the LGBT ‘base’ and allies to crafting effective media campaigns – all as part of a broadly defined comprehensive public education initiative to change hearts and minds on a massive scale. Back in 2004, these elements were not fully developed at all, and it showed.”

In the aftermath of these setbacks, it was time for a complete reset on marriage. The question for the movement was: Could it unite, go on the offensive and do so in sophisticated and effective ways? And, if it did, where would the resources come from to fuel such an effort?

In Denver, the movement leaders agreed to work on a shared vision for securing the freedom to marry, and Matt Coles, the director of the ACLU’s LGBT and AIDS Project at the time, was charged with leading the project. There was also an explicit understanding that if the movement coalesced around a shared strategy, foundations would provide resources to implement it.

By the summer of 2005, the strategy paper – which reflected the thinking of many movement leaders – had been vetted and endorsed by all the groups. It envisioned a plan to move the nation to a “tipping point” on marriage within 20 years by securing marriage equality in 10 states, getting 10 other states to embrace civil unions, another 10 states with some form of legal recognition of same-sex couples, and at least some pro-equality organizing in the remaining 20 states.

In 2004, its first grant year, the CMC made **19 grants** totaling **\$935,000**, funding 17 organizations in 10 states.

A vision to win

March 2004
CMC founded.

March 2004
Multnomah County in Oregon
(Portland) issues marriage licenses
to same-sex couples.



May 2004
First same-sex couples marry
in Massachusetts.

This “10/10/10/20” strategy was based on the path that several other social justice movements had taken to advance to a national resolution on their issues, especially when the likeliest national resolution was a U.S. Supreme Court victory. For example, most states had lifted their bans on interracial marriage by the time of the Supreme Court’s *Loving v. Virginia* ruling in 1967, and the same went for a women’s right to choose by the time of the Supreme Court’s *Roe v. Wade* ruling in 1973.

The “10/10/10/20” strategy had three important premises:

First, it recognized that moving forward on marriage would require multiple strategies, including litigation, public education, research and grassroots organizing, lobbying and electoral work. This allowed for broad buy-in by LGBT organizations with different areas of expertise.

Second, the strategy recognized that there was a role for different kinds of funders for the different strategies. For example, private foundations – which comprised most of the CMC funding partners – could

support public education, community organizing and research, but are barred by law from any involvement in lobbying or political campaigns. On the other hand, individuals and public charities, including, for example, the Proteus Action League (PAL) or Gill Action could (to the extent permitted by law) bring c4 resources to bear in lobbying policymakers and in ballot measure campaigns.

Third, “10/10/10/20” was explicitly focused on state-based efforts, given that marriage had traditionally been a state-defined and regulated institution, and the battleground clearly would remain at the state level for the foreseeable future.

Over the next decade, the “10/10/10/20” vision would become the overarching strategic framework for the larger marriage equality movement and the CMC and its funding partners. By aligning all their marriage-related grantmaking behind this shared game plan, the partners were able to exponentially increase the impact of the \$153 million they put into the effort, including the \$20 million invested in the CMC.

“Over the next decade, the ‘10/10/10/20’ vision would become the overarching strategic framework for the larger marriage equality movement and the CMC and its funding partners.”

PAUL DI DONATO, DIRECTOR, CMC

“It was a very big deal for the LGBT movement to come together to support a bold, long-term vision for winning marriage equality.” STEPHEN FOSTER, PRESIDENT AND CEO, OVERBROOK FOUNDATION

August 2004

California Supreme Court annuls San Francisco’s same-sex marriages.

2004

Voters in 13 states adopt anti-marriage ballot measures.

“It was a very big deal for the LGBT movement to come together to support a bold, long-term vision for winning marriage equality,” said Stephen Foster, president and CEO of the Overbrook Foundation. “And it became even more important as the years went by to say this is the plan we agreed to, and we were going to stick with it.”

With a blueprint in hand and a commitment from the CMC and its funders to back it up with money, the movement could soldier on, but the terrain was still very rough. In 2005 and 2006, voters in an additional nine states passed anti-equality state constitutional amendments, again by overwhelming margins.



In 2004, when San Francisco Mayor Gavin Newsom ordered the city to issue marriage licenses to same-sex couples, longtime lesbian activists Del Martin and Phyllis Lyon were the first to wed, only for the California Supreme Court to annul their marriage, and those of 4,000 other couples. But four years later, Phyllis and Del (pictured in their June 2008 wedding) were married for good. Del died two months later.

A research riddle

May 2008

California Supreme Court over- turns ban on same-sex marriage; 18,000 couples marry.

October 2008

Connecticut's Supreme Court rules same-sex couples must have the freedom to marry.



April 2009

Iowa's Supreme Court extends the freedom to marry to same-sex couples.

November 2008

California voters pass Prop. 8.



A study supported by the Gill Foundation offered a sobering explanation for why same-sex marriage was struggling at the ballot box: 57% of Americans believed that gay Americans did not share their basic values. Why was that? It was a question that would take years to answer.

A 2005 poll found that a majority of Americans believed that gay people did not share their values.

“We were shocked when we discovered this values gap,” said Tim Sweeney, former president of the Gill Foundation and one of the original founders of the CMC while he was at the Haas, Jr. Fund. “We were like, why do they say that? What do they think our values are? As it turned out, our opponents had successfully painted us as unconnected, free-floating atoms who weren’t connected to family, society or society’s institutions.”

To this point, LGBT groups had been relying on polling that didn’t probe what was really going on in people’s heads when they thought about gay people and “gay marriage.” These polls showed that most people

wanted gay people to have equal “rights,” so most of the movement’s messaging focused on the rights and benefits associated with marriage, but that message wasn’t breaking through.

So, beginning in 2006-07, the CMC and some of its funder members began investing in deep

psychographic research in California, where it appeared that the state Supreme Court would overturn the state’s statutory ban on same-sex marriage. The hope was to change hearts and minds to support the freedom to marry before anti-equality forces would, inevitably, attempt to overturn such a decision via the ballot box. This research involved focus groups, multi-hour interviews, ad development and testing, and rounds of surveys.

The trouble was, research of this scope and quality was expensive – an initial investment was 10 times the cost of a typical statewide poll. It also took more time than expected and had its own bumps along the way. For example, most of the early test ads fell flat. In late 2007, a spot called “The Garden Wedding” finally showed some promise.

This non-political ad was not based on a rights rationale for the freedom to marry. It did not even specifically mention same-sex marriage. Instead, it was about framing the debate in the context of the Golden Rule and eliciting empathy – asking straight people to think about what it would be like if they could not get married to the person they loved.

Unfortunately, there was only enough funding to combine running the ad in significant “rotation” with related on-the-ground organizing in just one media market in California: Santa Barbara. Did it work to change hearts and minds on marriage? It appears that it did: Santa Barbara ended up being the only county in Southern California to reject the anti-marriage amendment Proposition 8. But statewide, it was too little, too late.

CMC GRANTMAKING

CMC grantmaking in the 2006-07 period increased to approximately \$1.5 million per year, the number of grants went up (24 in 2006) as did the number of organizations funded and the number of states involved. Average grant size was \$71,000. The CMC later decided that these resources were being spread too thin across too many organizations and states to create scaled-up and meaningful impact.

Heartbreaking losses in Maine and California

November 2009
Freedom to marry law overturned by voters in Maine.



Kelly B. Huston

Starting in 2005, the CMC and its partners had invested in messaging research and public education efforts in California, a key battleground state. In 2008, however, Prop. 8, a measure to amend the California Constitution to ban same-sex marriage, passed 52% to 48% in California, a “liberal” state where many thought such an outcome could not happen, particularly when the pro-marriage political campaign spent a record \$42 million to defeat it. It was a huge blow to the country’s marriage equality movement.

“It was a very low moment and cause for a lot of reflection on what went wrong,” said Roger Doughty, executive director of Horizons Foundation in San Francisco. “It took a lot of patience and collective hand holding within the CMC – and of course within the larger freedom to marry effort – to avoid key players beating a hasty retreat. Had funding collapsed in any significant way, who knows where we would be today on marriage equality.”

Many blamed the Prop. 8 loss on the way the political campaign to defeat it was managed and to a lesser extent on California’s size and related organizing challenges, not on the campaign’s messaging content and delivery mechanisms.

Things were supposed to get better the next year in Maine, a much smaller state whose residents were far more homogeneous and far less religious than California’s. The Maine Legislature passed marriage equality but Maine allows for voters to veto laws passed by the legislature. So, in another key setback, the results were the same. When opponents trotted out the same disingenuous ads claiming that same-sex marriage would harm kids, the equality effort went down in flames by virtually the same margin as Prop. 8 – 53% to 47%. This led some to begin to wonder whether public education efforts could move hearts and minds on the freedom to marry.

Yet through it all, the CMC and its funders stayed the course. “Losses like this often chill funder enthusiasm and turn philanthropic focus to other issues or spending unproductive energy fretting over what happened,” Di Donato said. “Not marriage and not the CMC.”

Instead of finger pointing at itself, its grantees or anyone else, the collaborative focused on supporting the movement to get smarter, sharper and more sophisticated. In its postmortem of the California and Maine losses, the CMC concluded that the failure was not caused by the management of the efforts or random tactical issues; the problem was that the public education arm of the movement and the political campaign apparatus were not changing hearts and minds quickly enough or in large enough volume.

A CMC funder-sponsored study had shown that voters moved very little once the pure “political campaign” got underway. So, clearly, the only way to move forward was to implement a much more effective and truly multi-dimensional public education, non-political strategy well before a measure appeared on the ballot.

“That was a watershed moment,” Di Donato said. “The message that this sent to the CMC, Freedom to Marry and all of our key partners and colleagues was this was a devastating loss, but one of the problems here is that we did not fund to scale; fund early enough; or adequately fund specific coalition building and outreach efforts, especially on the faith, communities of color and business fronts. The result was a failure to move enough people who want to do the right thing, but keep coming down on the other side when hit with the message that ‘gay marriage’ would harm kids or permanently and negatively alter marriage as an institution.”

Bouncing back

December 2010
Congress repeals
“Don’t Ask, Don’t Tell.”

May 2010
Gay & Lesbian Advocates
& Defenders challenge the
constitutionality of DOMA.

From the ashes of the California and Maine defeats, the CMC honed its funding strategies even further.

On the surface, the passage of Prop. 8 appeared to be an epic victory for opponents of same-sex marriage. But it had the opposite effect. It shocked and outraged LGBT people and their allies across the country, and ignited pro-marriage equality efforts in a dozen states.

A 2010 CNN poll found that, for the first time, a majority of Americans supported marriage equality.

Philanthropists and activists seized these openings. There was a renewed commitment from the CMC, other funders, and LGBT activists to double down on research, polling and the resulting messaging efforts crafted from such work. To apply these many lessons learned, it was clear that the CMC had to concentrate resources and create even greater focus so that all efforts would reach scale and thus have a major impact.

In moving forward, it was also clear that the national marriage movement itself needed to have greater focus and discipline. The only logical choice to carry out this task was Freedom to Marry.

“For the funders, we needed a scale-up of this centralization, technical assistance and coaching effort to enable every effort in key states to take advantage of all the lessons learned in the previous few years,” said Sweeney, one of the CMC founders.

When it was first created, Freedom to Marry had not been intended to be a big new national LGBT organization competing for scarce resources. “It was going to



be a small ship, the glue that held the movement together, a behind-the-scenes cajoler and convener and re-grantor, an adviser to funders,” Sweeney said.

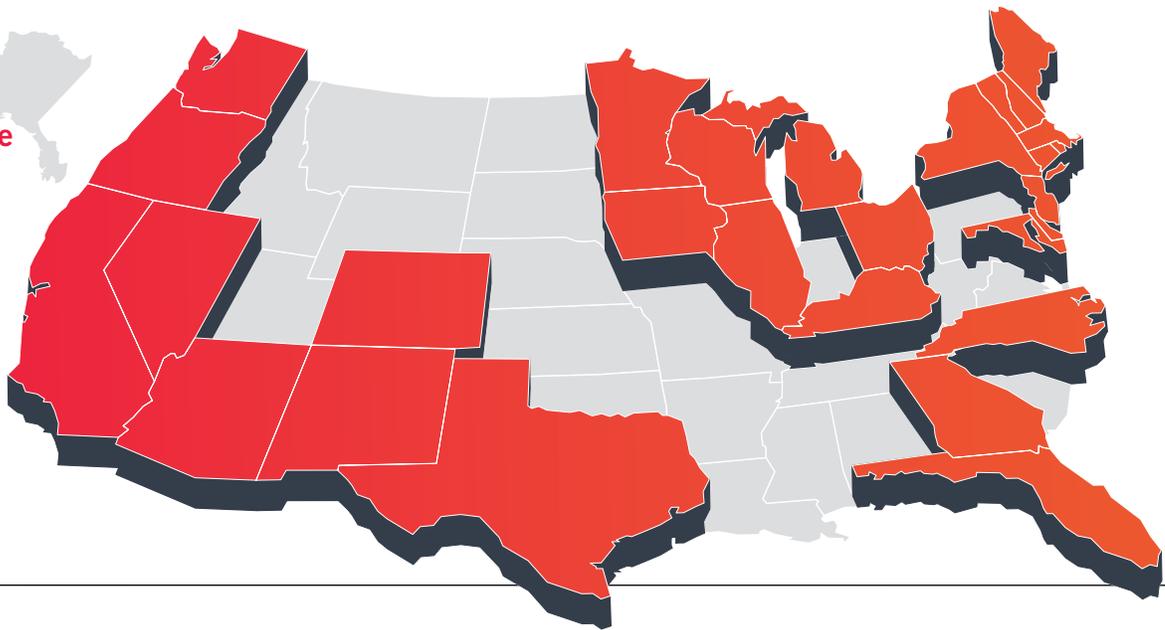
With assistance from key funding institutions and individual major donors, Freedom to Marry went from a five-person outfit to a 40-person organization. Its budget grew from about \$3 million to more than \$12 million in a short period of time. Freedom to Marry became a true out-front national organization, with both c3 (public education) and c4 (lobbying and ballot work) capacities.

“‘Freedom to Marry 2.0’ provided the best expertise and personnel to help design and execute everything needed to move the ball forward,” said Charlie Rounds of the Kevin J. Mossier Foundation. “Freedom to Marry supported these efforts from A to Z; and it coordinated the use and growth of much more sophisticated research, message development and message delivery. It also crafted practical templates and toolkits that could be adapted state by state on everything from effective grassroots organizing to tested approaches on organizing people of color, faith and business leaders and communities. In sum, the expanded role of Freedom to Marry would have profound implications for the CMC in its state-by-state strategy.”

For starters, the CMC started looking at Maine and other key states where the marriage equality effort could go on the offensive. As had been decided earlier, the strategy was to start public education campaigns well in advance of any electoral work, provide sufficient time to test and refine messaging and make larger and more strategic investments to ensure that all tactics

June 2011
New York enacts
marriage equality law.

In 11 years, the CMC made 187 grants in 29 states and D.C.



CMC GRANT DOLLARS DISTRIBUTED BY STATE	\$100,000	AZ	\$240,000	DC	\$1,152,000	IA	\$325,000	MI	\$650,000	NM	\$1,331,412	RI
Total distribution for state work: \$19,386,159	\$1,530,000	CA	\$200,000	FL	\$75,000	KY	\$575,000	MN	\$1,225,000	NY	\$375,000	TX
Grants for national work and special projects not included	\$200,000	CO	\$125,000	GA	\$430,000	MA	\$119,642	NV	\$150,000	NC	\$446,920	VT
	\$804,308	CT	\$160,000	HI	\$850,000	MD	\$345,333	NH	\$275,000	OH	\$956,500	WA
	\$160,000	DE	\$225,000	IL	\$2,021,027	ME	\$1,263,017	NJ	\$2,676,000	OR	\$400,000	WI

could be brought to scale. With Freedom to Marry, the CMC for the first time created an important benchmarking process to guide both entities’ investments and those of its partners in state-specific efforts. The goal was to focus in states where either pro- or anti-equality ballot measures loomed on the horizon, but there was still time for public education efforts to move a majority of the population to support marriage equality. Then, as the ballot initiative or legislative campaign geared up and Election Day got closer, the public education efforts funded by the CMC and others would wind down, and c4 and non-private foundation dollars would be used to push marriage equality over the finish line.

As a result, the CMC began requiring any state seeking support to gauge its baseline of public support for marriage by using a trusted pollster asking a specific series of questions proven to yield accurate results. Then, a state needed to come forward with sound public education and fundraising plans showing that it could increase public support for marriage from its baseline to between 51% to 53% within a fixed period of time. States that could not demonstrate this capacity did not receive CMC funding.

CMC GRANTMAKING

The CMC ramped up its focus by providing larger grants to fewer states. From 2010 to 2011, the number of states receiving support dropped from 10 to 5 and grants increased almost 75%, from an average of \$197,000 per state to \$342,000.

“More than ever, the CMC became a financial gatekeeper of the resources going to the states, with the CMC funder partners aligning their individual marriage-related grants to be synergistic with CMC efforts and with other individual large donors looking to see what the CMC was doing,” Di Donato said. “That’s a challenging and delicate role to play, but our benchmarking processes as well as close partnerships with our own grantees helped make it as informed, fair, disciplined and objective as possible.”

During this time, the CMC cut the number of grants it awarded, but those grants were substantially larger to those states that qualified. In Washington state, for example, the CMC granted close to \$400,000 for marriage equality efforts in the state, with CMC partner foundations pitching in an even greater amount through independent grants.

“We had come to appreciate,” Foster said, “that changing hearts and minds through public education efforts could in fact work, but only with significant levels of targeted resources and real commitment for the funds to be used in data-driven, proven ways.”

Hearts & minds

May 2012
North Carolina voters adopt anti-marriage ban 61% to 39%.



November 2012
Voters in four states back same-sex marriage.

May 2012
President Obama announces he supports the freedom to marry.

With significant CMC support, advocates began intensive testing first in Oregon and Maine – Maine because it seemed to present the ideal state to rebound with a better public education approach, and Oregon because its lead organization, Basic Rights Education Fund, was particularly adept at testing messages and message delivery tactics. Their mission: craft a message and find the best ways to deliver that message that would connect with the people – straight people.

“The other side was going for the gut,” said Amy Mello, field director for Freedom to Marry. “We were responding from the head, as if marriage was about getting a better dental plan.”

“We weren’t telling the story that gay couples valued marriage for the same reasons: love and commitment,” Mello said. Most straight people wanted to be fair to gay people, Mello said, but they were conflicted. That’s when field workers in Maine began conducting tens of thousands of “persuasion” conversations.

“When we made an emotional connection around shared values,” Mello said, “we gave conflicted Maine residents a way to override the negative reaction to the attack ads claiming kids would be harmed by ‘gay marriage’ and come back to their better selves. We were tipping the scales of their conflicted feelings so that their feelings on our side were winning out.”

Ads and messaging based on this research were tested and re-tested in both Oregon and Maine. It turned out that the most effective messengers weren’t gay couples, but rather parents or grandparents of gay and lesbian people who had been married for decades. By sharing their journey from being uncomfortable with homosexuality to wanting their gay or lesbian child to be able to share the love and commitment they’d had with their spouses, they showed conflicted residents a way forward.

IMPACT IN NEW YORK

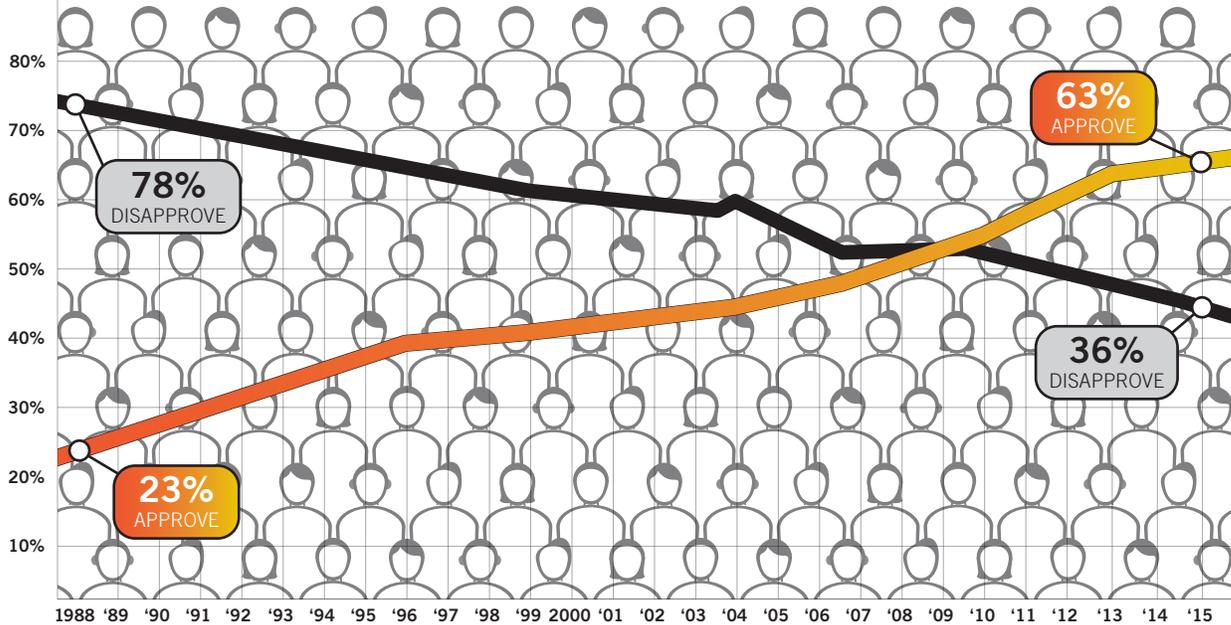
The CMC assessed the factors that led to New York state enacting marriage equality in 2011, following a bruising 2009 loss. The evaluation found that the CMC’s total grants of nearly \$1.3 million to the Empire State Pride Foundation helped lay the groundwork for increased support for marriage equality — by enabling the organization to build coalitions and a public education infrastructure.

This involved sophisticated, direct-mail pieces; going to the door with iPads and showing different non-political ads to speak to different audiences; and both phone and door-to-door canvassing. As everyone now knew, most of the movement’s messages through 2009 had been based on rights and responsibilities. It wasn’t working.

A revelatory moment came during a poll conducted by LGBT forces in Oregon. In the survey, straight voters were asked why they got married, and they said for love and commitment. They were asked why gay people got married, and they said “for rights and benefits.”

PUBLIC EDUCATION

On the opening night of the 2012 Olympics, marriage advocates in Washington state launched a five-week public education advertising campaign with CMC support, increasing public support for marriage equality by one to three points.



Public support for marriage equality from 1988 to 2015.

In the case of Maine, these ads – which never asked anyone to vote one way or another on any potential ballot measure – hit home and moved the needle for equality long before any ballot initiative hit the state for the second time. From mid-2011 to late summer of 2012, support for marriage in Maine climbed from 47% to 53%. Moreover, polling done after Maine’s second ballot vote on marriage equality in 2012 showed that people in Maine remembered these moving “journey” ads more than any of the ads in the political campaign. Similar polling results confirmed this finding in Oregon. The LGBT movement had finally found the way to move hearts and minds on marriage.

In Minnesota by 2012, marriage equality advocates knew they would face a new effort to ban the freedom to marry in that state. Because of recent research funded by the CMC and others, as well as in-state experience, Minnesota advocates also understood that they could not let the anti-equality forces “own” the faith issue, and that they needed to be able to raise up and organize a strong array of faith voices for equality.

As such, high priority was given within the public education outreach strategy to the early development of a nine-member faith team – with strong local ties – that was involved in all strategy conversations. Eventually this faith team transitioned smoothly from the public education side of the work to purely c4 engagement as the actual ballot fight drew near.

In Washington state, CMC and other funding aligned with the CMC grants supported similar extensive community outreach and organizing. Three target demographics were identified for public education organizing: families with children; communities of color; and people of faith. The families and children

effort stemmed from the need to defend against the anticipated opposition ads that messaged “exposing threats” to children and parental rights. The communities of color efforts aimed to raise the visibility of LGBT people and the freedom to marry in the four key communities of color in the state – African American, Asian and Pacific Islander, Latino, and Native American. This was done through efforts to mobilize trusted organizations and individuals of color within their own communities; soliciting endorsements from leading state people of color organizations and community leaders; elevating the voice of LGBT people of color within their own communities; and developing media outreach tailored linguistically and culturally to communities of color.

On Nov. 6, 2012, voters in Maine, Maryland, and Washington endorsed marriage equality, and voters in Minnesota rejected the proposed ban on same-sex marriage. This was the first time that same-sex marriage had won at the ballot box.

It was one of most satisfying days in the history of the entire LGBT movement, and a day of validation for the CMC, its funding partners and the advocates who had crafted and executed the winning “tool-box” that finally led to victory. The CMC commissioned an evaluation on the impact of public education funding in the four 2012 ballot win states. It also found that the CMC’s and related funding had a major positive impact in changing hearts and minds through the revamped messaging and message delivery mechanisms, including targeted cross-issue alliance building.

More good news was just around the corner.

NOVEMBER 2012
Marriage wins at the ballot in Maine, Maryland, Minnesota, and Washington.



The home stretch

2012

Federal district and circuit courts rule that DOMA is unconstitutional.

June 2012

The Supreme Court lets a court decision overturning Prop. 8 go into effect, extending the freedom to marry to California.

June 2013

The Supreme Court's *Windsor* decision effectively guts DOMA.

November 2013

Illinois enacts a marriage equality law.

When the CMC was born, its focus on state-based efforts did not include support for marriage-related litigation for two reasons: state work needed resources the most, and the movement needed to demonstrate broad public support for equality. That said, almost all of the CMC's funders provided significant support for four national LGBT legal groups through their own grantmaking.

strategy developed by the Gay & Lesbian Advocates & Defenders (GLAD), and later the ACLU, Lambda Legal and the National Center for Lesbian Rights, to surgically attack the section of the Defense of Marriage Act that prohibited the federal government from recognizing same-sex marriages performed in the states. The thinking was two-fold. First, because the federal government had (except in rare situations) deferred to the states in matrimonial issues, the law was on the movement's side. Second, even if pro-equality forces lost in the courts, including the Supreme Court, it would be far less devastating than losing on the "big" constitutional question.

It was a careful, plodding and un-dramatic legal strategy, but over time, it consistently won in district and circuit courts – and primed the Supreme Court for a knockout decision.

STATE-BASED LITIGATION

The 10/10/10/20 strategy envisioned winning some states through state-based litigation where state constitutional provisions and the courts appeared to be most favorable. The state courts in Connecticut and Iowa did rule for equality in 2008 and 2009, respectively. But the approach was unsuccessful in three other promising states, Maryland, New York and Washington state. In closely decided decisions between 2006 and 2007, the high court in each of these states ruled that same-sex couples were not entitled to the freedom to marry under state constitutional law.

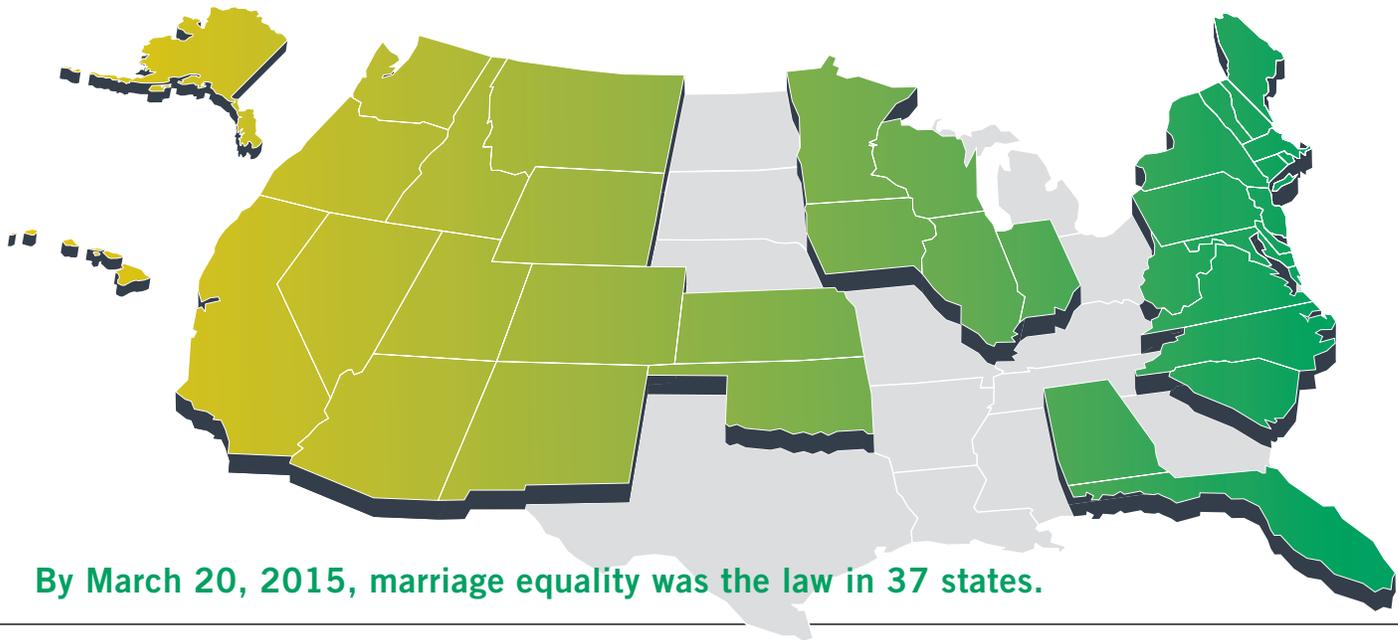
Following the basic tenet of the "10/10/10/20" vision, the national LGBT legal groups and leading LGBT organizations were in no rush, in any event, to take the "big question" of marriage equality to the Supreme Court before same-sex marriage reached a critical mass in the states. An unfavorable decision in the high court would set the movement back by 20 years or more, so the timing had to be right.

And so came the *Windsor* ruling in 2013. Years earlier, movement organizations had been persuaded to back a

Edith Windsor was the lead plaintiff in the Supreme Court case, *United States v. Windsor*, which, when she won, gutted DOMA, and opened the door to ending state-based bans on same-sex marriage.



Donna F. Aceto



By March 20, 2015, marriage equality was the law in 37 states.

The *Windsor* case centered on New York resident Edith Windsor, who was legally married in Canada in 2007 to Thea Spyer, her partner of 40 years. Upon Spyer’s death in 2009, Windsor sought a federal estate tax exemption extended to all married couples but was turned down because of Section 3 of the Defense of Marriage Act, which stated that the term “spouse” only applied to a marriage between a man and a woman.

The Supreme Court took up Edie’s case, and she won. The ruling gutted DOMA, effectively ending federal discrimination against same-sex couples. Justice Kennedy’s majority opinion also opened the door for challenging the constitutionality of all the state-based bans on same-sex marriage. This was the beginning of the end for state-based bans on same-sex marriage.

After the *Windsor* decision, litigation challenging the constitutionality of state-based bans on same-sex marriage exploded, some brought by the national LGBT legal groups, but many more by private attorneys. All had the same goal: putting before the Supreme Court the ultimate question: Does denying the freedom to marry to same-sex couples violate the U.S. Constitution? The only

question was whether and when the high court would take a case to decide the ultimate question.

No one, including the CMC, was sure the Supreme Court would come down on the side of marriage equality. As a result, the CMC continued funding all forms of public education work, especially in states like Colorado, Hawaii, Illinois, Nevada, New Mexico and Oregon that, for one reason or another, could or would be on the front lines if the Supreme Court decision went the wrong way.

The CMC also decided to be nimble, change its litigation funding position, and funnel a significant amount of money for the first time in its history into the litigation strategy. “We knew that the national LGBT legal groups needed those resources to analyze all this litigation and help shape it all in a comprehensive way to make sure that as many decisions as possible came down on the side of equality and that the best possible cases would get to the Supreme Court,” said CMC director Di Donato. “The CMC had to make sure that we did everything possible to ensure favorable outcomes, including continued public education funding to help create the best possible public opinion environment for the ideal ruling.”

“This is truly a day of celebration for loving and committed same-sex couples and their families – and for all of us who believe in the American journey to equality under the law and the pursuit of happiness, with liberty and justice for all. The Supreme Court’s mortal blow to DOMA puts the moral weight of the federal government on the side of all Americans who seek to share in the freedom to marry and all its protections and responsibilities.”

EVAN WOLFSON, FOUNDER AND PRESIDENT, FREEDOM TO MARRY

The final step

June 2015

Supreme Court rules that denying same-sex couples the freedom to marry violates the U.S. Constitution.



To ensure the success of litigation, the CMC joined with four of its funders to pump more than \$1 million in new dollars to the four national LGBT legal groups to pursue their own freedom to marry cases and provide technical and other assistance to the numerous cases being litigated by private attorneys.



The case eventually taken up by the Supreme Court was a plaintiff lawyer's dream. Ohio resident James Obergefell was forced to fly his dying partner, John Arthur, to Maryland and get married on an airport tarmac because same-sex marriage was not legal in Ohio. Arthur, who

had suffered from ALS, died several weeks later, but Ohio refused to allow Obergefell to be identified as a surviving spouse on Arthur's death certificate. Obergefell sued, on the basis that Ohio was discriminating against same-sex couples who had legally married outside the state.

As Di Donato said: "You could not create out of thin air a better fact pattern that you would want to have in front of a court to say, 'Now, explain to us why and how it's constitutionally permissible to have this happening in 2015 America?'"

A majority of the Supreme Court justices couldn't explain that – and on June 26, 2015, the nation's high court made same-sex marriage the law of the land. It was a landmark civil rights victory.

Ohio residents Jim Obergefell and John Arthur, who suffered from ALS, flew to Maryland in July 2013 to get married since they could not legally wed in Ohio. Jim was the lead plaintiff in the Supreme Court case that made marriage equality the law of the land.

“The CMC created efficiency, focus, clarity and strategic alignment in the funding. The overarching campaign for marriage equality eventually had all of these elements as well. That’s why we won.”

ANDREW LANE, EXECUTIVE DIRECTOR,
JOHNSON FAMILY FOUNDATION



Charlotte Fiorito / Compass Photographers



Chris M. Burch Photography

And it happened so quickly. To put it in perspective, many inside the LGBT movement had worried that the “10/10/10/20” vision – whose stated goal in 2005 was to have same-sex marriage legal in 10 states by 2020 – was wildly ambitious. Well, it was 2015, and same-sex marriage was now legal in all 50 states.

All along, there had been amazing advocates on the ground and a tremendous grassroots energy, but that energy had to be channeled. It needed a vision, a focus, and a plan. That’s how the CMC, and the philanthropic world, contributed to this historic social change.

“The foundation dollars were critical in making it clear that this issue had substance and backing,” Andrew Lane, executive director of the Johnson Family Foundation, said. “That sent a powerful message to key

marriage supporters and to key individuals and organizations sitting on the fence. And it also sent a message to the opposition. The CMC created efficiency, focus, clarity and strategic alignment in the funding. The overarching campaign for marriage equality eventually had all of these elements as well. That’s why we won.”

Foreman, of the Haas Jr. Fund, added: “If there isn’t that vision, that plan, and that campaign, you’re going to be generating a lot of heat but not necessarily a positive outcome. You can see overwhelming support for gun control, and yet it isn’t going anywhere. You see majority support for reproductive freedom, but constraints on these rights continue to escalate. You could just go down the list – and I think that’s largely because of the absence of a shared vision and game plan.”



Evert Barnes Photography



Nikke Paula

Lessons learned

Is the CMC a model for other social justice philanthropy?

“Definitely,” Overbrook Foundation’s Foster said. “And I just don’t see that model used much in other social justice movements. It’s a shame, because bringing people together to fund in a collaborative way, behind a collaborative vision, leverages dollars exponentially. It also creates relationships of trust among funders that then can be used in other ways and in other related causes.”

“The CMC – for worse and better – remained pretty small,” said Roger Doughty, executive director of the Horizons Foundation and a CMC funder member. “That was worse because we couldn’t recruit more donors – meaning less money – but better for helping keep a strong sense of connectedness among the funders.”

CMC leaders would be the first to acknowledge that the CMC model is not a “one size fits all” solution for other social justice movements. But the journey toward marriage equality revealed some key lessons learned that other funders can and should consider:



Greg Kendall-Ball

1. **Take the risk to invest capital** and other resources in bold and visionary ideas.
2. **Hire staff with social movement experience** to maximize the quality of the partnership between funder and grantee as well as the alignment of funder and advocate strategy.
3. **Put money into messaging research** and appreciate that it's expensive and takes time.
4. **Support public education** efforts that are data-driven, thoroughly tested, specifically tailored to targeted communities and sectors, and delivered by respected and believable messengers. These kind of efforts can effectively move hearts and minds.
5. **Invest early** in high-impact, multi-dimensional public education efforts to move the needle of public opinion well before a legislative or ballot struggle.
6. **Use the influence of foundations** to convene, support and push collaboration.
7. **Play a major role** in ensuring that all parts of a movement are fully developed, funded and working in sync (research, polling, messaging development and delivery, coalition building, organizing and field work, state infrastructure capacity, and litigation, etc.).
8. **Exercise strategic and grantmaking discipline**, while reserving enough flexibility to quickly and effectively respond to changes on the ground.
9. **Evaluate the inevitable setbacks**, learn from them and embrace the concept of “losing forward,” using each effort to put grantees and advocates in a better position to win the next battle.
10. **Seek legal counsel** experienced in tax rules governing advocacy funding so grantmaking can be potent without crossing any legal lines.
11. **Adequately staff** funder collaboratives and make consensus a goal, but not a mandate.

A fond farewell

It's an extraordinary thing in a social justice movement when you actually win and can say, "OK, our job is over now."

"The job of securing full equality for LGBT people is not over; the job of defending the marriage win is not over," said Luna Yasui, program officer at the Ford Foundation. "But the CMC's job, which was to achieve marriage equality coast to coast, is over."

In the coming months, both the CMC and Freedom to Marry will close up shop.

Di Donato hopes that all the funders involved in the CMC will continue to devote significant resources to

issues of LGBT equality – both formal legal equality as well as lived equality – but he sees no reason to morph the CMC into something else and just keep on going.

"Sometimes in the nonprofit universe, no one seems to ever know how to stop and close anything down, even when the objective is met," he said.

Upon making the decision to shut down, he thought there would be complicated emotions for him as well as others, given how hard everyone worked to make the dream of marriage equality into a reality. "People have said to me, 'It must be bittersweet' especially as I have been involved in this work for eight years. And my response is, 'No, it's just sweet, sweet, sweet.'"



Sarah Deragon

About Proteus Fund



Our Vision: Advancing justice through human rights, democracy and peace.

Founded in 1997, Proteus has brought together more than \$133 million towards the realization of this vision. We partner with individual donors and foundations to achieve their goals through strategy development, research and fund management. Proteus specializes in tailoring responsive, multi-dimensional, high-impact grantmaking initiatives. Proteus also offers the ability for funders to integrate support for lobbying activity. Our work advances some of the most complex and cutting edge issues at the forefront of democracy and social change.

Collaborative Grant Making: Effective. Efficient. Responsive.

When funders pool resources and draw on collective ideas, insights and energy, it creates a collaborative dynamic that maximizes participants' investment dollars and strategy development leading to broader impact than each donor partner might have individually. For this reason, Proteus integrates a collaborative approach in all of our work. The result is:

- Greater impact as part of a coordinated, comprehensive and sophisticated strategy;
- Greater thought leadership in the movement and the field;
- Capacity for in-depth due diligence and thoughtful oversight of grantmaking;
- Flexibility to incubate new ideas and take bold action;
- Responsive grantmaking that aligns strategy with real-time movement dynamics; and
- Empowerment of participants through leverage of investments.

Civil Marriage Collaborative: Focused. Responsive. Victorious.

Proteus Fund is proud to have served as the home for the Civil Marriage Collaborative throughout the successful quest for marriage equality. The CMC maintained a laser focus on funding a wide array of public education strategies and tactics, including research, message development and deployment, grassroots and grassroots mobilization, coalition and alliance-building and related efforts. In every respect, CMC distinguished itself as an example of how diverse funders can collaborate and, by joining forces, succeed.

Proteus Fund congratulates the Civil Marriage Collaborative on the critical role it played in achieving this great human and civil rights victory.

Acknowledgments



To the thousands of individuals and institutions who took a stand for marriage equality, thank you!

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To view the accompanying documentary:

HEARTS & MINDS: The Story of the Civil Marriage Collaborative, please visit www.proteusfund.org/cmc

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