

AGENDA ITEM

For Meeting of: 7-19-01

Memorandum

SUBMITTED LATE

To: The Commission
From: Commissioner Karl J. Sandstrom
Date: 7/19/01
RE: NPRM on Brokerage Loans and Lines of Credit

On p. 24 of the NPRM, the proposed text for 100.7(b)(22)(iii)(A) exempts loans "used by the candidate solely for living expenses" from the reporting requirements of part 104. The NPRM states, "It is important to note this exception in paragraph (b)(22)(iii) is limited to loans used solely for personal living expenses. Thus, if all or part of the loan proceeds is used in connection with a campaign, the loan would need to be reported under 11 C.F.R. part 104." (p.7, lines 1-6) I would like to amend the NPRM to add the following after line 6 on p. 7 (or wherever OGC considers most appropriate):

The Commission is seeking comment on how to make proposed section 100.7(b)(22)(iii)(A) more precise, since an individual might borrow money for any number of personal, commercial or investment purposes that would fall outside the category of "personal living expenses," yet such a loan would not be appropriate to characterize as "in connection with a campaign." For example, if a candidate establishes a margin account at a brokerage firm to acquire additional securities, this would not appear to be a "personal living expense."

In addition to seeking comment on whether the term "personal living expenses" is sufficiently descriptive and inclusive, the Commission is also seeking comment on the scope of the phrase "used for the candidate's campaign," which is included in proposed section 100.7(b)(22)(ii)(A) and is derived from Section 432(e)(2) of the Act. Should this phrase encompass only loans the proceeds of which are lent or contributed to the candidate's campaign or are used to defray campaign expenses? Even with this narrowing construction, because money is fungible, what additional guidance should the Commission provide as to the reporting obligations of candidates who receive money from multiple sources (e.g., a loan and the liquidation of stock) who contribute or lend money to their candidate committee?