FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: THE COMMISSION
STAFF DIRECTOR
GENERAL COUNSEL
FEC PRESS OFFICE
FEC PUBLIC RECORDS

FROM: MARY W. DOVE
SECRETARY OF THE COMMISSION

DATE: February 4, 2004

SUBJECT: *Ex Parte* COMMUNICATIONS REGARDING DRAFT AO 2003-37

Transmitted herewith are three *ex parte* communications regarding the above-captioned matter.

Proposed Advisory Opinion 2003-37 is on the agenda for Thursday, February 5, 2004.

Attachment:

Michelle Johnston-Fleece <mjohnston@GLWD.org> on 02/04/2004 02:03:55 PM

To: mdove@fec.gov
cc:

Subject: Oppose FEC Opinion Restricting Nonprofit Advocacy

Dear Secretary Dove,

I am writing to express agreement with the comments submitted today by People for the American Way on behalf of 324 organizations to oppose the FEC opinion Restricting Nonprofit Advocacy.

The FEC's draft opinion poses an unprecedented threat to advocacy and educational work done by nonprofits.

Thank you,
Michelle Johnston-Fleece
Executive Policy & Planning Associate
God's Love We Deliver
166 Avenue of the Americas
New York, NY 10013
Phone: 212-294-8193
Fax: 212-294-8101

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2004 FEB -4 P 2:34

Cassandra Garrison <cgarrison@oregonfoodbank.org> on 02/04/2004 02:26:07 PM

To: mdove@fec.gov
cc:

Subject: Oregon Food Bank

Oregon Food Bank agrees with the comments submitted today by 324 organizations. I am writing regarding the pending action by the Federal Election Commission that could severely restrict the ability of 501(c)(3) and 501(c)(4) organizations to engage in federal policy advocacy that could be considered to "promote, support, attack, or oppose" any candidate for federal office, including people currently in office.

This action would mean that our 501(c)(3) and 501(c)(4) organization could not issue a press release, a report, a fundraising letter, post something on a website, or engage in any other form of public communication that was critical or supportive of the policy positions of President Bush, any other candidate for President, or anyone running for Congress or the Senate unless it was using funds specifically raised from individuals who would be limited to contributions of $5,000 or less.

Because our mission is to address the root causes of hunger, we educate our stakeholders and the public on important public policy issues. Sometimes, these issues are also taken by candidates for public office. As a 501(c) (3), we do not endorse or even comment on candidates for election. We focus solely on public policies issues. If the draft opinion is adopted as proposed by the General Counsel, the result may be that we could no longer conduct unless we raise and spend funds in accordance with the source and contribution limitations of the FECA.

For most of our regional food bank organizations, raising funds under these restrictions would be impossible. For most of these organizations represented by the Oregon Food Bank, we are not permitted under federal tax law to establish or maintain a separate segregated fund to engage in political activity. Therefore, this opinion would entirely shut down many of the advocacy activities of our organization.

Cassandra Garrison
Public Policy Manager
Oregon Food Bank
P. O. Box 55370
Portland, OR 97238
cgarrison@oregonfoodbank.org
"....because no one should be hungry."

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2004 FEB -4 P 2:35

February 4, 2004
2610 NE 195th, Apt. B-8
Shoreline, WA 98155

Mary W. Dove
Commission Secretary
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Draft Advisory Opinion 2003-37

Dear Commission Secretary Dove:

I am writing to express my serious concern about the General Counsel's draft of Advisory Opinion 2003-37. I feel that it adversely effects freedom of speech in our country by severely curtailing the educational, advocacy and voter participation activities of nonfederal political organizations and other nonprofit corporations.

Nonfederal political organizations and other nonprofit corporations contribute to the wellness of our Democracy in the following ways:

- Educating the public and advocating positions on legislative and policy issues
- Letting members of the public, like myself, know about the positions taken by officeholders with respect to these issues
- Helping citizens participate in the democratic process
  - Helping us to know the stance of officeholders on particular issues
  - Helping us to know when to call officeholders in order to express opinions on issues of importance to us
  - Helping us to decide how to vote during elections.

I agree with the letter that was filed today and signed by 324 environmental, civil rights, civil liberties, women's rights, public health, social welfare, senior, religious, and social justice organizations. As the letter states: "Making it unlawful to criticize the policies and actions of a sitting President or Members of Congress except under the auspices of a registered political committee is one of the most fundamental attacks on the freedom of speech and freedom of association of American citizens ever contemplated by a governmental agency."

This is not only an issue for these organizations, but for all citizens, who, like myself, believe that freedom of speech---including freedom to criticize---is fundamental to the healthy functioning of Democracy in the United States. If dissent is not allowed to exist, if advocacy is erased, Democracy will no longer exist.

I respectfully urge the Commission not to issue the draft opinion in its present form.

Sincerely,

Blythe Horman

Blythe Horman