



Paul Sanford <psanford@crp.org> on 09/22/2003 05:32:58 PM

To: travel2003@fec.gov
cc:

Subject: Candidate Travel Comments

Attached find comments submitted by FEC Watch and the Center for Responsive Politics on the FEC's Notice of Proposed Rulemaking on Candidate Travel. They are attached in MS Word and Portable Document Format.

We recognize that we are submitting these comments after the comment deadline listed in the NPRM. Like many others in the Washington, D.C. area, Tropical Storm Isabel disrupted our schedule last week, and interfered with our plan to submit these comments in a timely fashion. For these reasons, we request Commission consideration.

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- candidatetravel.comment.doc



- candidatetravel.comment.pdf



September 22, 2003

VIA E-MAIL

Mai T. Dinh
Acting Assistant General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

Re: Notice 2003-14: Candidate Travel

Dear Ms. Dinh:

FEC Watch and the Center for Responsive Politics (CRP) respectfully request that the Commission consider the attached comments on the Notice of Proposed Rulemaking on Candidate Travel, published at 68 *Fed. Reg.* 50481 (September 22, 2003).

We recognize that we are submitting these comments after the comment deadline listed in the NPRM. Like many others in the Washington, D.C. area, Tropical Storm Isabel disrupted our schedule last week, and interfered with our plan to submit these comments in a timely fashion. For these reasons, we request Commission consideration.

Respectfully submitted,

A handwritten signature in black ink that reads "Larry Noble".

Lawrence Noble
Executive Director
Center for Responsive Politics

A handwritten signature in black ink that reads "Paul Sanford".

Paul Sanford
General Counsel
Center for Responsive Politics

Attachment

BEFORE THE FEDERAL ELECTION COMMISSION

NOTICE 2003-14

Candidate Travel

Comments of FEC Watch and the Center for Responsive Politics

I. Introduction

FEC Watch and the Center for Responsive Politics submit these comments in response to the Federal Election Commission's Notice of Proposed Rulemaking ("NPRM") on Candidate Travel. 68 *Fed. Reg.* 50481 (Aug. 21, 2003). FEC Watch is a project of the Center For Responsive Politics, a non-partisan, non-profit research group based in Washington, D.C. that tracks money in politics and its effect on elections and public policy. FEC Watch's objective is to increase enforcement of the nation's campaign finance, lobbying, and ethics laws. FEC Watch monitors the enforcement activities of the Federal Election Commission and other government entities, including the Department of Justice and congressional ethics committees, and encourages these entities to aggressively enforce the law.

II. Comments

A. General comments

At the outset, we commend the Commission's decision to take up the issue of candidate travel. It has long been a difficult and controversial issue, and judging by the number of calls we receive from the news media, the public is very interested in the costs of candidate travel, particularly travel by an incumbent presidential candidate using Air Force One.

We anticipate that the starting point for some commenters will be the current rules. We believe the starting point for these rules should be the prohibitions and limitations in sections 441a and 441b of the FECA. The rules should, to the greatest extent possible, require reimbursements sufficient to ensure that the contribution limits and prohibitions in these two sections are not violated. This should be the Commission's paramount concern in issuing new travel regulations, and any new rules should be evaluated on that basis.

We understand the Commission's reluctance to impose unnecessary or unjustifiable financial burdens on candidates and campaign committees. We also share the Commission's concern about the potential disproportionate impact that travel valuation rules could have on candidates in geographically large states and districts, since this could have the undesirable effect of reducing a candidate's contact with voters.

However, we do not believe these considerations justify allowing corporations, labor organizations or individuals to provide what are, in effect, in-kind contributions in the form of cut-rate travel services. On the contrary, we believe the FECA *requires* reimbursements sufficient to prevent violations of the contribution limits and prohibitions. These limitations should not be "trumped" by a desire to minimize the financial burdens imposed on campaigns.

With these principles in mind, we have the following specific comments.

B. The three alternatives

1. Alternative A

We urge the Commission to reject alternative A, because it would allow campaign committees to pay an amount that is significantly less than the actual costs of travel services received, thereby allowing service providers to provide even more in-kind contributions of travel services.

The closest airport with first-class commercial service is often a significant distance from the airport actually used. In that instance, allowing the campaign committee to reimburse the service provider for the first class airfare to the closest commercial airport would significantly understate the actual costs incurred by the service provider, and would be lower than the amount that most non-campaign travelers would be required to pay for similar service. While it may serve the laudable goal of making it easier for candidates in large districts to reach remote areas, this goal does not justify allowing violations of the statute.

Alternative A is even more generous than the current rules, which only allow campaigns to use the first class fare if they actually use the commercial airport. The current rule already allows some prohibited in-kind contributions. It should not be changed in a way that would allow more of these contributions.

2. Alternative B

Alternative B is preferable to alternative A, because it does not allow the use of fares for the nearest commercial airport. However, it relies on a standard that will be difficult to enforce.

Alternative B allows campaigns to pay the first class or coach fare when they hitch a ride on a "previously scheduled" flight. In theory, this is reasonable, since the service provider incurs only minimal additional costs in this situation. However, in practice, it will be very difficult for the Commission to determine whether a flight was previously scheduled, or was scheduled for the benefit of the candidate. Service providers might offer candidates travel services on flights and claim they were previously scheduled, when in fact they were scheduled partially or entirely to provide assistance to the campaign.

If the Commission were to require documentation sufficient to determine whether a particular flight was previously scheduled, this standard might be workable. Under those conditions, alternative B might be preferable, since it would give the Commission a mechanism for requiring campaigns to pay the charter rate for unscheduled flights. This would be much closer to the actual costs of the flight, and would certainly be closer to actual value of the services received by the candidate.

We are not confident an adequate documentation regime could be implemented. Absent that, the current rule would be preferable to alternative B, because it uses the commercial service availability standard, which is more objectively verifiable than the previously scheduled standard.

3. Alternative C

Alternative C would require campaigns to reimburse service providers for the charter rate in all cases, regardless of whether a flight was previously scheduled or whether commercial service is available. This alternative would be the most effective in ensuring that campaigns pay the true cost of travel services. For that reason, it is the most faithful to the requirements of the FECA.

Alternative C would also be the easiest to effectively administer, since it uses a uniform valuation standard that is relatively easy to verify.

We urge the Commission to adopt Alternative C.

III. Conclusion

FEC Watch and the Center for Responsive Politics hopes that these comments are useful to the Commission as it considers issuing new rules regarding candidate travel.