



"Hoersting, Steve" <SHoersting@nrsc.org> on 09/19/2003 08:42:48 AM

To: travel2003@fec.gov
cc: Senior Staff <SeniorStaff@nrsc.org>

Subject: Travel Comments of NRSC

Dear Mai,

Please find attached comments of the National Republican Senatorial Committee regarding the Commission's proposed regulations on Candidate Travel.

Steve Hoersting
General Counsel
National Republican Senatorial Committee
phone: (202) 675-6086 fax: (202) 675-6058

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- Comments of NRSC-Travel.doc

National Republican Senatorial Committee

Stephen M. Hoersting
General Counsel

September 19, 2003

Ms. Mai Dinh
Acting Assistant General Counsel
Federal Election Commission
999 E. Street NW
Washington, DC 20463
travel2003@fec.gov

VIA ELECTRONIC MAIL

Re: Candidate Travel

Dear Ms. Dinh:

By and through the undersigned counsel, the National Republican Senatorial Committee submits the following comments regarding the Commission's Notice of Proposed Rulemaking on Candidate Travel.

The National Republican Senatorial Committee ("NRSC") is an unincorporated association formed in 1916 and comprised of sitting Republican members of the United States Senate. The NRSC's primary function is to aid the election of Republican State candidates and otherwise support the goals of the Republican Party.

The NRSC respects the efforts of the Commission in this area and appreciates the opportunity to comment. Weather conditions and office closings in the District of Columbia have served to keep these comments brief.

Creating section 100.93

The NRSC supports a broadening of the Commission's rules to include airplanes owned by persons other than corporations or unions, and the moving of

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these rules away from 11 CFR Part 114. The NRSC also prefers rules focused on the normal use of the airplane, rather than the other approaches suggested in the NPRM.

Definitions

The definitions of “campaign traveler” and “service provider” are clear and workable. The only concern the NRSC sees with regard to the definition of “unreimbursed value” is the language of the rule itself. The proposed rule states at 100.93(a)(2) that “[a] payment that is not made within the time limits set forth in this section is not a reimbursement for the purposes of this section.”

The NRSC has no problem with this definition in so far as it establishes the threshold for determining when an excessive or prohibited contribution occurs. But by refusing late reimbursements altogether, the Commission would dampen its ability to separate absent-minded campaign schedulers or late reimbursers, on the one hand, from willful violators, on the other. Given BCRA’s increased penalties for knowing and willful violations, the Commission should make plain in the text of its rule that late reimbursement, or some other method of correction, *sua sponte*, is in some sense still encouraged.

Alternative A

The NRSC supports Alternative A.

Alternative B

The Commission notes in its NPRM at 50484, that “candidates who campaign in major metropolitan areas ... will generally be able to use a private plane and reimburse at a first class airfare” whereas rural campaigning, by comparison, will be negatively affected. Addressing this inequity is a principle reason for the Commission’s rulemaking. *Id.* Alternative B, however, would create a related inequity. The Commission recognizes that first class reimbursement is generally less expensive and more flexible than charter rate reimbursement. By distinguishing between regular service flights that are previously scheduled and those that are not, the Commission favors certain States. Leaving aside the frequency of pre-scheduled flights from DC to New York City, or DC to LA, pre-scheduled flights by non-commercial service entities from LA to San Francisco occur with some frequency. Flights from Cincinnati to Cleveland occur somewhat less frequently. Similar intrastate flights in other States would occur even less frequently.

Sections 100.93(d), (e), (f) and (g)

The NRSC has no comment on proposed section (d), applauds (e), and—because candidate committees always are, or ought to be, aware of receiving transportation from third parties—has no concern with sections (f) and (g).

Proposed Revisions to 11 CFR 106.3

The NRSC supports the proposed revision as described in the NPRM.

Conclusion

The NRSC appreciates the opportunity to comment on this rulemaking, and offers to testify if the Commission believes a public hearing on these issues is warranted.

Respectfully submitted,

Stephen M. Hoersting

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