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To: Mr. John Vergelli, Acting Asst  
General Counsel, FEC

Re: NPRM on 11 CFR Part 109(Subpart  
C) Conduct Standard 3 ("substantial  
discussions")

[NAVPAC is a small, FEC registered  
non-connected, multicandidate  
committee focussing on independent  
expenditures.] The substance of our  
comment is as follows:

The discussion of "materiality" with  
regard to the definition of "substantial"  
needs to be clarified further. The  
"nightmare" hypothetical is not  
specifically addressed, that is candidate x  
has a discussion with an agent of  
non-connected PAC A in 2003 in which  
he talks about the need to get out the  
vote of a particular demographic, and  
nothing else. PAC A then makes a  
mailing, or some other communication, in  
any subsequent election year to that  
demographic urging them to vote for  
candidate x. Is the communication  
coordinated?

"Materiality" needs to be further defined,  
in our opinion, to clarify the answer to  
that question, and there need to be time  
limits added to it. To be material, in our  
opinion, there should be some specific  
touching upon, in the discussion, the idea  
or subject of a subsequent  
communication by the PAC. General  
discussions by the candidate or his  
agents about the nature of his campaign

should not count. There is not a sufficient nexus. Moreover, the discussion , to count (for the movement of the independent expenditure to an in-kind contribution), should have to take place, at a minimum, in the same election cycle in which the communication was made, and preceding the making of the independent expenditure.

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- NAVPAC-

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