



**FEDERAL ELECTION COMMISSION**  
**Washington, DC 20463**

**FROM:** Mai Dinh  
**DATE:** 09/26/2003 02:39 PM

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To: phone2003@fec.gov  
cc:

Subject: forwarded email from Center for Responsive Politics

----- Forwarded by Mai Dinh/FEC/US on 09/26/2003 02:47 PM -----  
Paul Sanford <psanford@crp.org> on 09/26/2003 02:26:07 PM



To: mdinh@fec.gov, jlevin@fec.gov  
cc:

Subject: Fwd: Delivery Notification: Delivery has failed

This bounced back to me. Not sure why. If it is because the comment deadline has passed, I apologize. I was under the impression that the comment deadline had been extended. If I was misinformed, please consider this late comment.

>Date: Fri, 26 Sep 2003 14:14:07 -0500 (EST)  
>From: PMDF e-Mail Interconnect <postmaster@hostnet.net>  
>Subject: Delivery Notification: Delivery has failed  
>To: psanford@crp.org  
>  
>Content-type: text/plain; charset=us-ascii  
>Content-language: EN-US  
>  
>This report relates to a message you sent with the following header fields:  
>  
> Message-id: <5.1.1.6.0.20030926141003.01bbef70@mail>  
> Date: Fri, 26 Sep 2003 14:13:13 -0400  
> From: Paul Sanford <psanford@crp.org>  
> To: phone2003@fec.gov  
> Subject: Phone Banks comments  
>  
>Your message cannot be delivered to the following recipients:  
>

> Recipient address: phone2003@fec.gov  
> Reason: translated to illegal address: phone2003@fects001.  
> Reason translated address failed: unknown host or domain  
>  
>  
>Action: failed  
>Status: 5.1.1  
> (translated to illegal address: phone2003@fects001. Reason translated  
> address failed: unknown host or domain)  
>Original-recipient: rfc822;phone2003@fec.gov  
>Final-recipient: rfc822;phone2003@fec.gov  
>Return-path: <psanford@crp.org>  
>Received: from DIRECTORY-DAEMON by ias1.iacnet.com (PMDF V5.2-32 #38567)  
> id <01L14G7X0ZJ8000B7D@ias1.iacnet.com>; Fri, 26 Sep 2003 14:14:07 EST  
>Received: from ned.crphq.org (host194.crp.org [209.183.235.2])  
> by ias1.iacnet.com (PMDF V5.2-32 #38567)  
> with ESMTP id <01L14G7OC7H8000AS2@ias1.iacnet.com> for  
> phone2003@fec.gov; Fri,  
> 26 Sep 2003 14:13:56 EST  
>Received: from w24-xpst500.crp.org (209.183.235.31)  
> by ned.crphq.org (Worldmail 1.3.167); Fri, 26 Sep 2003 14:13:18 -0400  
>Date: Fri, 26 Sep 2003 14:13:13 -0400  
>From: Paul Sanford <psanford@crp.org>  
>Subject: Phone Banks comments  
>X-Sender: psanford@crp.org@mail  
>To: phone2003@fec.gov  
>Message-id: <5.1.1.6.0.20030926141003.01bbef70@mail>  
>MIME-version: 1.0  
>X-Mailer: QUALCOMM Windows Eudora Version 5.1.1  
>Content-type: multipart/mixed;  
boundary="Boundary\_(ID\_wFskGJYj3pSgSaJ/huEDiA)"  
>  
>Attached find comments submitted by FEC Watch and the Center for  
>Responsive Politics on the FEC's Notice of Proposed Rulemaking on Party  
>Committee Phone Banks. They are attached in MS Word and Portable Document  
>Format.



- phonebanks.comment1.doc



- phonebanks.comment1.pdf



September 26, 2003

**VIA E-MAIL**

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

Re: Notice 2003-16: Party Committee Telephone Banks

Dear Ms. Dinh:

FEC Watch and the Center for Responsive Politics (CRP) are pleased to submit this comment on the Notice of Proposed Rulemaking on Party Committee Telephone Banks, published at 68 *Fed. Reg.* 52529 (September 4, 2003). We have the following brief comments.

The proposed rules address the proper allocation of the costs of a party committee phone bank that includes an explicit reference to the party's presidential or vice presidential candidate and a generic reference to the party's other candidates. Both alternatives properly recognize that the generic portion of this phone bank would qualify as federal election activity under 11 CFR 300.33(c)(1). As a result, the entire cost of the phone bank must be paid with federal funds. See *also* 2 U.S.C. §§ 431(20)(A)(iii), 441i(b)(1).

With the source of funds question resolved, the central issue becomes the proper allocation of the costs of the phone bank between the presidential candidate and the party's other candidates. Alternative A would attribute fifty percent of the cost to the presidential candidate. Alternative B would attribution 100 percent to the presidential candidate. The portion attributed to the presidential candidate would be an in-kind contribution, coordinated expenditure or independent expenditure by the party committee.

So long as the generic portion of the phone bank communication is clearly a reference to candidates other than the presidential and vice presidential candidates, we believe the fifty percent allocation is permissible. However, if the generic portion of the communication does not clearly refer to other candidates, the phone bank should be allocated 100 percent to the presidential candidate.

For example, a communication that says "come out and support the great Nixon team" should be treated as a communication for the Nixon-Agnew team and attributed entirely to

the presidential and vice presidential candidates, even if the reference to "team" were meant to include state and local candidates.

In contrast, a communication that says, "come out and support Nixon and our great Republican team" refers to other candidates with enough specificity to justify the fifty percent allocation.

The NPRM seeks comments on whether this rule should be extended to communications in other media. We think these communications may raise their own unique issues, so we urge the Commission to defer any extension of this rule until those issues can be more thoroughly examined, perhaps in another NPRM.

The NPRM also asks whether the phone bank rule should apply to phone banks where the specific portion of the communication refers to a House or Senate candidate, rather than a presidential candidate. Although the underlying coordinated expenditure limits differ, there is no apparent reason why the allocation method should not be same for all federal candidates, so we believe the phone bank rule could be extended in this manner. Of course, these communications would also be federal election activity that must be paid for entirely with federal funds. *Id.*

We appreciate the opportunity to comment on the NPRM.

Respectfully submitted,



Lawrence Noble  
Executive Director  
Center for Responsive Politics



Paul Sanford  
General Counsel  
Center for Responsive Politics