



Abigail Fox <Abigail.Fox@icba.org> on 11/19/2003 10:56:06 AM

To: payrollded03@fec.gov

cc:

Subject: Comments

Please confirm receipt of this message. Comments are attached. Thank you.

<<ICBA Letter_to_FEC_re_Payroll_Deductions.DOC>>



- ICBA Letter_to_FEC_re_Payroll_Deductions.DOC



INDEPENDENT COMMUNITY
BANKERS of AMERICA

November 19, 2003

Mr. John C. Vergelli
Acting Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Petition for Rulemaking on Payroll Deductions by Trade Associations

Dear Mr. Vergelli:

The Independent Community Bankers of America ("ICBA") writes in support of the Petition for Rulemaking on Payroll Deductions filed by America's Community Bankers ("ACB").

ICBA concurs that the current prohibition on the use of payroll deductions by member corporations of a trade association found at 11 C.F.R. § 114.8(e)(3) finds no support in the Federal Election Campaign Act, as amended ("Act"). To the contrary, the Act is permissive.

First, despite the general prohibition on corporate and labor organization contributions, the Act permits these entities, as well as trade associations, to establish, administer, and solicit contributions to a separate segregated fund. See 2 U.S.C. § 441b(b)(2)(C).

Second, without identifying any restriction on the type of solicitation a trade association may engage in, the Act explicitly states that a trade association shall not be prevented from soliciting the stockholders and executive or administrative personnel of a member corporation once the member corporation has provided separate and specific approval for the solicitation. Id. § 441b(b)(4)(D). Had Congress wished to carve out payroll deductions from this provision it could have done so. However, the legislative history of this provision suggests no such intent on the part of Congress, and the FEC rulemaking establishing this rule pointed to no such intent. Indeed, as highlighted by the ACB petition, the rule as originally proposed would have explicitly permitted payroll deduction as a means of facilitating contributions to trade association PAC.

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Finally, at the time the FEC adopted the rule, and in the years since, the FEC has not identified any compelling policy reason for the restriction. Instead, the FEC Advisory Opinions have sought to minimize this restriction by permitting numerous other means of facilitating contributions to a trade association PAC as permitted by the Act.

In this electronic age, payroll deductions are a simple and inexpensive means to collecting contributions. We urge the FEC to revise the regulation as it was originally intended to explicitly permit payroll deductions by member corporations of trade associations on behalf of the trade association PAC once the member corporation has provided separate and specific approval to the trade association.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald K. Ence", with a long horizontal flourish extending to the right.

Ronald K. Ence
Treasurer, ICBPAC

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