FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: THE COMMISSION
STAFF DIRECTOR
GENERAL COUNSEL
FEC PRESS OFFICE
FEC PUBLIC RECORDS

FROM: OFFICE OF THE COMMISSION SECRETARY

DATE: April 21, 2004

SUBJECT: *Ex Parte* COMMUNICATION
RE: NPRM Political Committee Status

Transmitted herewith is a letter from Mr. Robert F. Bauer regarding the above-captioned matter.

Attachment

RECEIVED
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COMMISSION
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VIA FACSIMILE

Lawrence H. Norton
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: NPRM regarding Political Committee Status

Dear Mr. Norton:

I am writing this letter to address a question that you raised at the hearing and that time did not permit to be answered fully on an important point. This letter constitutes, of course, a fully disclosable *ex parte* communication. It is submitted in the belief that, in light of the sensitive and complex issues present by this rulemaking within a compressed time period, this additional response may be useful to the Commission in gathering all relevant information and views.

In your brief questioning of the first panel on the second day, you referred to a point I had stressed on behalf of ACT: the disruption to the regulated community of any changes in the rules at this stage of this election cycle. This point can be effectively illustrated by consideration of the effects of proposed changes to the allocation rules affecting registered political committees like ACT that comply with section 106.6 of the FEC's regulations. As you know, committees operating under these rules manage their allocation ratios on a cycle-wide basis. They may begin with the ratio in effect at the conclusion of the preceding cycle, or, alternatively, estimate a ratio based on their projected activities; but in either case, they are expected to adjust the ratio in light of experience during the cycle. 11 C.F.R. §§ 106.6(c)(1), (2).

The proposed rules would significantly alter the formulas for the calculation of the allocation ratios. Those changes as proposed would include the establishment of minimum percentages for the federal share. It seems beyond question that those changes would work an extraordinary inequity on committees that have operated through three-quarters of this cycle under the current rules. No change proposed by the Commission more graphically shows the effect of rules changes so late in a cycle: here we have a rule keyed to a cycle, and yet the proposed rules would substantially revise the rule in the same cycle and would become effective within 4 months of its conclusion. By contrast, when the FEC last promulgated significant revisions of the allocation rules in 1990, it transmitted final rules to the Congress in June of 1990, but those rules did not become effective until the next cycle, on January 1, 1991.

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Perkins Coie LLP (Perkins Coie LLC in Illinois)

Very truly yours,

Robert F. Bauer

RFB/mjs

cc: Commissioners / Federal Election Commission
Judith L. Corley
Lawrence E. Gold