

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

FEB 13 4 30 PM '96



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AGENDA ITEM

For Meeting of: 2-14-96

MEMORANDUM

TO: Marjorie Emmons
Commission Secretary

SUBMITTED LATE

FROM: Lee Ann Elliott (LAE) ^{JAB}
Chairman

DATE: February 13, 1996

RE: Proposed Changes to Draft AO 1996-3 to be considered February 14, 1996

In an effort to reach a consensus conclusion, I propose the following three changes to the OGC draft.

1. On page 2, line 6, after footnote 2 of the draft insert the following language to replace the remainder of that paragraph:

The Commission notes, however, that in *Buckley v Valeo*, 424 U.S. 1 (1976), the Supreme Court additionally said a "political committee" is an organization which must either be "under the control of a candidate or the major purpose of which is the nomination or election of a candidate." *Id.* at 79. See 26 U.S.C. §527(e)(1), (2); Advisory Opinions 1995-11 and 1994-25; and *Akins v Federal Election Commission*, No. 92-1864 (D.D.C. March 30, 1994). Appellate court judgment vacated-rehearing *en banc* granted, No. 94-5088 (D.C. Cir. Jan 26 1996). See also *Federal Election Commission v Massachusetts Citizens for Life, Inc.* ("MCFL"), 479 U.S. 238, 252 n.6 and 262 (1986) (The Court stated that if MCFL's independent expenditures "become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee.")

2. On page 4 replace the first and second sentences with the following:

The pattern of the Foundation's contributions indicates that, while the declaration of trust empowers the Foundation to make political contributions, these contributions to date have not been of sufficient magnitude, when considered in conjunction with the specific circumstances presented in your request, to consider the Foundation a political committee under the Act.

3. On page 4 delete lines 8 and 9. Place footnote 5 after "activities." on line 7.

2 / 0 5 . / 5 3 7 . 2