



July 12, 2004

Bradley A. Smith
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

2004 JUL 12 A 9 37

FEDERAL ELECTION COMMISSION
WASHINGTON, DC

Re: Proposed Advisory Opinion 2004-20

Dear Chairman Smith and Members of the Commission:

On behalf of the Simmons for Congress campaign, I appreciate the opportunity to provide comments on Proposed Advisory Opinion 2004-20 which is scheduled for review by the Commission at its meeting of July 15, 2004. AOR 2004-20, submitted by the Farrell for Congress campaign, asks about the determination of what constitutes an "election" under the provisions of the Federal Election Campaign Act ("FECA"), as amended, in light of the recently revised nomination procedures for candidates to District office under the General Statutes of the State of Connecticut ("CGS").

Simmons for Congress ("SFC") is the principal campaign committee of Representative Rob Simmons who has filed a statement of candidacy with the Commission as a candidate in 2004 for re-election as a United States Representative from Connecticut's Second District.

I have reviewed Draft A and Draft B of AOR 2004-20 and it is the position of our campaign committee that the Commission should approve Draft A.

Connecticut's previous statutes relating to the nomination of candidates to District office (the office of United States Representative being one such "District office" pursuant to CGS §9-372(3) and (4)), provided that the Convention of the delegates of a political party was the sole authority to determine both the nominee of the party to a District office and whether any other candidate qualified for a primary for such District office. At that time, a candidate qualified for a primary only if he or she received at least fifteen per cent of the delegate votes at said Convention. There was no other means by which a candidate could qualify for a primary.

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Paid for by Simmons for Congress

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Therefore, the earliest date that a party-endorsed candidate can be lawfully and conclusively determined to be the nominee of such party for a state or district office under the new law is fourteen days after the close of the District Convention. Of course, if there has been one or more other candidates who have qualified for the primary election either through receipt of at least fifteen per cent of the delegate votes at the District Convention or through submission of the required number of signatures from enrolled party members, then the primary election will be held and the nominee of such party will not be determined until after said primary which pursuant to CGS§9-423 is the second Tuesday in August, this year being August 10, 2004.

SFC believes that Connecticut's new law results in the State or District Convention not having conclusive authority at the time of its meeting to nominate a candidate. That authority resides outside of the convention process through the ability for another candidate to petition directly onto the primary ballot. Therefore, Draft A of Advisory Opinion 2004-20 should be approved by the Commission.

The Commission's guidance on this issue is greatly appreciated.

Sincerely,



Eric M. Janney
Chairman and Counsel
Simmons for Congress

c: Mary Dove, Commission Secretary
Rosemary Smith, Associate General Counsel