

Comment on AOR 2013-09



"Robert E. Rutkowski"
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07/23/2013 11:00 AM

To <secretary@fec.gov>,
cc
bcc
Subject FEC Has No Authority to Declare Federal Laws Unconstitutional

Ellen L. Weintraub, Chair
Federal Election Commission
999 E Street, NW
Washington, DC 20463
(800) 424-9500
secretary@fec.gov

Re: FEC Has No Authority to Declare Federal Laws Unconstitutional

Dear Chair,

Late yesterday, Democracy 21 joined the Campaign Legal Center in filing comments in response to a Federal Election Commission (FEC) Advisory Opinion Request (AOR) 2013-09, which asks the agency to exceed its authority by declaring a statute unconstitutional and announcing that the agency will no longer enforce the statute—even though the Supreme Court has upheld the statute as constitutional.

Specifically, the AOR submitted on behalf of Special Operations Speaks PAC ("SOS PAC") and U.S. Senate candidate Col. Robert L. Maness, asks whether the PAC may make, and the candidate accept, a contribution exceeding the \$2,600 limit applicable to non-multi candidate political committees, up to the \$5,000 limit applicable to multi-candidate political committees despite the fact the SOS freely admits it has not and will not meet the requirement that it contribute to five or more candidates for federal office in order to qualify as a multi-candidate political committee.

In the AOR itself, the requestors acknowledge that the U.S. Supreme Court has reviewed and upheld the requirements for multi-candidate committees as a constitutionally permissible means to prevent circumvention of contribution limits.

The Supreme Court has already spoken on this question and last time we looked the FEC does not have the authority to override the Supreme Court.

There is no legal or policy grounds for the position taken by the requestors of the Advisory Opinion and the FEC should dispose of this Advisory Opinion Request promptly. If the attorneys representing the requestors believe they can pursue this question to the Supreme Court and get the Court to reverse its position on this issue, they must have a whole lot of spare time on their hands.

The FEC should reject the request and prepare to defend the law in court against an expected challenge by the requestors.

Thank you for the opportunity to bring these remarks to your attention.

Yours sincerely,
Robert E. Rutkowski

cc: House Minority Leadership

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Re: Comments:

http://www.democracy21.org/wp-content/uploads/2013/07/CLC_D21_Comments_on_AOR_2013-09_SOS_PAC_7_22_13_amended.pdf