



FEDERAL ELECTION COMMISSION
WASHINGTON, D. C. 20463

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OPENING STATEMENT BEFORE THE
SUBCOMMITTEE ON ELECTIONS
OF THE
COMMITTEE ON HOUSE ADMINISTRATION

U.S. HOUSE OF REPRESENTATIVES

HEARING: *FEDERAL ELECTION COMMISSION:
REVIEWING POLICIES, PROCESSES AND PROCEDURES*

NOVEMBER 3, 2011

Good afternoon Chairman Harper, Ranking Member Gonzalez, and Members of the Subcommittee. I am pleased to be here on behalf of the Federal Election Commission to discuss the Commission's operations and procedures. I appreciate the Committee's invitation to appear and to provide a few minutes of opening remarks to highlight certain aspects of the Commission's longer, written submission.

When I was appointed to the FEC in 2008, along with the Vice Chair, Commissioners Petersen, McGahn and Walther – who as you know had previously served a recess appointment – the Commission had lacked a quorum for approximately 6 months. During that time, Committees continued to file disclosure reports and FEC staff continued to receive and review those reports. Commission staff continued to provide information to committees and the public. Without a quorum, however, important aspects of the agency's operations were put on hold. Accordingly, when the quorum was reconstituted in July of 2008, my colleagues and I found ourselves with a significant backlog of Enforcement, Audit and Alternative Dispute Resolution matters waiting for us. Through a lot of hard work by everyone in the agency, particularly in the offices of the General Counsel and Compliance, we got up to speed and in the three years since, the Commission has achieved more appropriate rates of processing these types of matters. What never lagged, however, was the fine quality of work performed by the dedicated staff of the FEC.

A good share of the Federal Election Campaign Act – the primary Act the Commission is responsible for – is aimed at disclosure of federal campaign activity. Following cases like *Citizens United* and *SpeechNow*, many new speakers – and new types of speakers – became engaged in new ways. With this additional activity, the public increasingly relies on the disclosure provided by committees through the FEC to inform itself, and effectively respond to and participate in the political debate.

With that important goal in mind, the Commission strives to make campaign finance information readily available and useful to the public. Our website provides disclosure of committee reports and independent expenditures and electioneering communications in nearly real time as the information is received. We have improved the navigation of our website to make information easier to find and use. Visitors to the FEC's homepage may view Campaign

Finance Maps that provide immediate access to information regarding candidates in the 2012 Presidential and House and Senate elections. In order to meet the public's growing demand for campaign finance information *via* the website, the Commission this year invested significant resources in our website and in the capacities of our electronic filing servers. These necessary upgrades will ensure that the FEC's electronic filing system can accept both the voluminous and very large number of reports we anticipate receiving in 2012. These upgrades will also accommodate the huge spikes in web traffic seen around filing deadlines, without creating delays in disclosure.

Of course, to be useful, the information the FEC provides to the public must be accurate as well as timely. Accordingly, the FEC devotes a considerable portion of its staff to reviewing all filed reports for accuracy, completeness and compliance with the law, on a daily basis. This is not a small task. In FY 2011, the FEC reviewed over 72,000 documents. These same analysts work closely with committees to answer questions, assist with the filing process, and resolve problems as they arise. They work extended hours on filing deadlines, to be there when filing committees need them the most.

New technology enables the FEC to communicate with its many stakeholders in faster, more cost effective ways. In response to committee requests, the Reports Analysis Division has recently initiated a program by which Requests for Additional Information will be sent to committees via email, to ensure more timely notification of potential disclosure problems at a reduced cost. In addition, the Commission has established a Twitter account, providing another fast and efficient means to disseminate information. These are just some examples.

The Commission also works hard to reach out to those who file with the FEC and to provide assistance so they can comply with the law. In FY 2011, the Information Division's Communication Specialists fielded over 11,000 phone calls and Reports Analysts fielded over 14,000 calls. To better serve filers, the Commission is developing a dedicated web page that will contain answers to frequently asked questions and resource material on filing and disclosure requirements.

The FEC continues its regional conference program to assist in educating those who have reporting obligations. The feedback from these conferences is uniformly positive. I have been participating in conferences since I was appointed to the Commission and I find that they provide an important opportunity to interact with and learn from those who are treasurers or filing personnel for committees. The FEC continues to innovate to reach more committees and filers. For example, in order to provide more cost-effective trainings for grass-roots organizations and candidates, the FEC has instituted a series of lower-cost, one-day seminars and workshops focused for a particular group or on a legal issue. The FEC also offers live, interactive webinars, and trainings on YouTube and has recently published on-line an updated Campaign Guide for Congressional Candidates and Committees.

In addition to disclosure and education, the Commission's other major responsibilities surround the administration, interpretation and enforcement of the FECA. Public confidence in our elections depends not only on transparency, but on the assurance that those who participate in our federal election system do so within the rules established by Congress. In recent years, the Commission has made significant progress in processing enforcement cases and audits more timely. For certain reporting violations, the FEC's Alternative Dispute Resolution Program and its Administrative Fine Program have been very effective. The FEC appreciates that the Committee on House Administration was instrumental in securing an extension of the Administrative Fines Program in 2008, and we hope that this Committee will again act to extend or make permanent the Program in 2013.

The FEC anticipates this upcoming 2012 election cycle to be its most active one in history. And the FEC is preparing for it. Already in 2010 a record level of fundraising by congressional committees, political action committees and political party committees was reported. In addition, spending on independent expenditures by PACs, groups and individuals jumped from \$43.6 million in 2008 to \$204 million in the 2010 cycle; an increase of nearly five-fold. This increase in activity has very practical implications for our filing system and our website. The FEC's recent investments in technology and server capacity will ensure that the public will have immediate access to filings and reports of campaign activity and that the Commission can receive large and numerous filings on heavy filing dates.

All of this activity is taking place during a time in which campaign finance laws are rapidly changing. The issues are complex and there are genuine disagreements amongst my fellow Commissioners on some of these matters. Where we can, we strive to provide what information we can to filing committees even before we are able to complete a rulemaking process. For example, in response to a consent judgment entered in *Carey v. FEC*, the Commission last week released guidance for non-connected political committees looking to operate consistent with the court's decision. We took a similar approach with *Citizens United* in early 2010. While this guidance is an interim measure, it provides as much information as we can prior to the completion of the rulemaking process.

I wish that I could tell you that the Commission had completed a rulemaking to implement the decision in *Citizens United*, but it has not. But not for the lack of trying. Twice, the Commission has considered draft Notices of Proposed Rulemaking on the topic, and both times, disagreements over the proper scope of the endeavor prevented us from issuing the NPRM. Given our inability to begin a comprehensive rulemaking to address *Citizens United*, the Commission has put out for public comment two petitions for rulemaking addressing issues arising from the decision. We anticipate the Commission may be able to take action on these petitions in the next month or so. Several other rulemakings are on our plate including a rulemaking to address the *Carey* case, as well as the court rulings in *SpeechNow* and *EMILY's List*. Our current expectation is that we will be able to put an NPRM out for public comment by the end of the calendar year.

Finally, in addition to the changing legal landscape, the FEC recognizes that it must meet the challenge of providing guidance in an age of ever-evolving technological innovations. Campaigns, political committees, voters and grassroots advocates are using the Internet and mobile applications to communicate with voters and disseminate electoral information. Keeping up with this change platform by platform is not something I think the Commission can, or should, do. Rather, we should provide guidance on how to take advantage of innovations while being mindful of the requirements found in the Act and Regulations. Recently, the Commission published an Advance Notice of Proposed Rulemaking concerning disclaimers on Internet

communications, which developed out of two advisory opinion requests regarding Internet advertising by committees. The FEC invites and welcomes comments from the public on our regulations and revisions we may make to accommodate emerging technology.

In closing, I would like to recognize our agency's staff, who are directly responsible, on a daily basis, for the successful operations of the FEC. Much of the news reports and commentary on the world of campaign finance and the FEC's role in it centers on the rapidly changing nature of the law. But the devotion and the hard work of our agency staff is a constant, and they all deserve to be acknowledged for the role they play in ensuring that our country's elections are fair and transparent. I would also like to thank Commission staff, particularly Duane Pugh and Amy Pike in our Office of Congressional Affairs, who worked so hard to assist us in preparing for this hearing and in so thoroughly and thoughtfully responding to this Committee's questions.

We appreciate the opportunity to provide information to the Committee on House Administration and this Subcommittee on Elections. I am happy to answer any questions the Members may have.