



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**CONCURRING STATEMENT
OF COMMISSIONER LEE E. GOODMAN
ON NOTICE OF DISPOSITION OF PETITION FOR
RULEMAKING ON CANDIDATE DEBATES FOLLOWING COURT REMAND**

My reasons for voting against opening a rulemaking in response to the Petition for Rulemaking are set forth in the Commission's Notices of Disposition dated November 14, 2014, and approved by the Commission on March 23, 2017, as well as my Concurring Statement to the Notice of Disposition of Petition for Rulemaking on Candidate Debates dated November 9, 2015. My earlier Concurring Statement sets forth my concerns about a rulemaking's effect upon free press rights.¹ The rulemaking sought by Level the Playing Field would ostensibly be invoked by some to impose significant new restrictions not only upon non-profit debate organizations but also upon the right of press organizations to stage and cover candidate debates. This risk is neither theoretical nor unprecedented.² Imposing the Petition's desired restrictions on the press would, in my view, violate the First Amendment and the Press Exemption of the Federal Election Campaign Act of 1971, as amended, without preventing *quid pro quo* corruption of elected officials.

A handwritten signature in blue ink that reads "Lee E. Goodman".

Lee E. Goodman
Commissioner

A handwritten date in blue ink that reads "March 23, 2017".

Date

¹ See Concurring Statement of Commissioner Lee E. Goodman to the Notice of Disposition of Petition for Rulemaking on Candidate Debates, Nov. 9, 2015.

² Some on the Commission do not recognize the application of the Free Press Clause of the First Amendment and the Act's Press Exemption to press-sponsored candidate debates. See, e.g., Vote Certification, MUR 6952 (Fox News Network LLC), May 24, 2016; MUR 6952 (Fox News Network LLC), Statement of Reasons of Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Lee E. Goodman, June 28, 2016, Supplemental Statement of Reasons of Commissioner Lee E. Goodman, MUR 6952 (Fox News Network LLC), June 30, 2016; Statement of Reasons of Vice Chairman Lee E. Goodman and Commissioners Caroline C. Hunter and Matthew S. Petersen, MUR 6703 (WCVG-TV), December 19, 2013. The Commission's early enforcement practice with respect to this issue included threatening a press entity with an injunction for inviting a limited number of candidates. See Letter from Chairman Robert O. Tiernan to Telegraph Publishing Company, MURs 1167, 1168, 1170 (Nashua Telegraph), February 20, 1980 ("Upon review of the allegations contained in the complaints, the Commission, on February 20, 1980, determined that there is reason to believe that the Telegraph Publishing Company and the Nashua Telegraph are about to violate 2 U.S.C. § 441b and authorized the General Counsel to seek immediate injunctive relief in court to prevent the violation. Specifically, it appears that the Telegraph Publishing Company and the Nashua Telegraph are sponsoring and conducting a debate between George Bush and Ronald Reagan, two candidates for the Republican Presidential nomination and have specifically refused to allow other Republican candidates to participate.").