Dana Howitt <Dana@grassrootsdemocrats.com> on 04/09/2004 04:43:30 PM

Please respond to Dana@grassrootsdemocrats.com

To: politicalcommitteestatus@fec.gov
cc: Danahowitt@hotmail.com

Subject: Political Committee Status

Attached are comments in response to the NPRM "Political Committee Status".

Dana Howitt

Deputy Executive Director

Grassroots Democrats

1275 K St NW, 6th Floor

WashingtonDC 20005

202-898-4809

dana@grassrootsdemocrats.com

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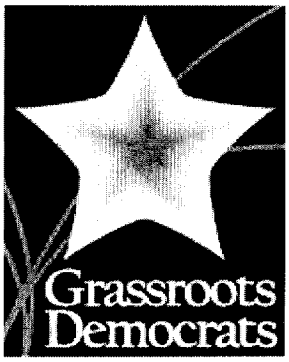

Ms. Mai T. Dinh
Acting Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Notice of Proposed Rulemaking, "Political Committee Status," 69 Fed. Reg. 11736 (March 11, 2004)

Dear Ms. Dinh:

I am writing to comment on several aspects of the Commission's proposed rulemaking to redefine what is a "political committee" under the Federal Election Campaign Act, and to explain why the proposals would unnecessarily and adversely affect thousands of non-federal political organizations governed by Section 527 of the Internal Revenue Code.

Grassroots Democrats is an independent, non-profit political organization organized under Section 527. Its mission is two-fold: first, to work, on an individual basis, with state and local Democratic Party committees obtain the resources, and particularly the non-federal funds, necessary for them to operate effectively following the enactment of the Bipartisan Campaign Reform Act of 2002; and second, to work with those party committees in their compliance with the applicable legal and accounting requirements concerning their financial transactions and record-keeping. These objectives serve the public interest in assuring the integrity and vitality of our political system by enabling party committees to continue to thrive despite the many and complex new restrictions imposed by BCRA. They are also in the parties' own interest, given the practical burdens that have been imposed on them, the reality that many of them have no full-time staff - - let alone a battery of professional advisers - - and the complex new compliance obligations upon them.

As an organization dedicated to strengthening Democratic Party committees at the grassroots level, Grassroots Democrats does not itself directly engage with the general public, such as making public communications concerning particular candidates or elections, or undertaking voter registration, voter identification, get-out-the-vote or other voter mobilization activities. Nor does Grassroots Democrats take or advocate positions on particular political or public issues. Grassroots Democrats believes that American democracy needs strong political parties at every level, and helping to fulfill that need is the core of the organization's mission.

We wish to comment on the two alternatives that the NPRM proposes for a definition of a federal political committee that, without any basis in the law or public policy justification, convert Grassroots Democrats into a federal political committee.

First, Alternative 2-B would provide that *every* entity organized under section 527 is a political committee under FECA, under the theory that all satisfy a new, regulatory "major purpose" test. See 69 Fed. Reg. at 11748, 11757. This proposal is extreme and heedless of the law and common sense. Congress, through FECA, BCRA and Section 527 itself has explicitly provided different standards and regulation of federal political committees and other political organizations. If every Section 527 organization were a federal political committee, much of Section 527 and other provisions of the Code itself would be nullified, including the most recent amendments enacted by Congress in 2000 and 2002 that introduced extensive registration and reporting and disclosure requirements on non-federal Section 527 organizations. See Pub. L. 106-230 and Pub. L. 107-276, codified at 26 U.S.C. §§ 527(i) and (j), and portions of §§ 6012, 6033, 6104 and 6652. Congress enacted those amendments to the Code, of course, just before and after it debated and enacted BCRA. It would be plainly contrary to the text and intent of all three enactments since 2000 for the Commission to assert jurisdiction over all Section 527 organizations.

Moreover, we are mystified as to why the Commission would even entertain a proposal that would expand its jurisdiction and responsibilities so dramatically. According the Internal revenue Service website, no fewer than 29,306 organizations have registered as Section 527 organizations by filing IRS Form 8871. Presumably, these only include organizations that satisfy the registration threshold of $25,000 in annual receipts. Thus, the Commission is suggesting that the number of entities that regularly file reports with it increase by a factor of at least 900%, and probably much more, a wholly impractical approach.

Alternative 2-A also would define a "political committee" as any entity organized under Section 527, but it would recognize five exceptions. See 69 Fed. Reg. at 11748, 11757. These exceptions appear designed so that the term "political committee" would include virtually any Section 527 organization that could be deemed to be involved to any degree in influencing a federal election, regardless of any actual, let alone principled and judicious, consideration of its "major purpose." That in itself is entirely too broad, contrary to Congress's three recent enactments and, again, it would surely increase multi-fold the number of directly regulated political committees under the Act. But it would also produce other unpalatable consequences from another vantage point, as the example of Grassroots Democrats plainly illustrates. As described above, Grassroots Democrats is dedicated to working with state and local party committees, engages in no public outreach otherwise in even broadly considered areas of candidate commentary or voter mobilization, and so could not fairly be encompassed by any "major purpose" test or be construed to be making "expenditures" under the Act, but it may well be encompassed by Alternative 2-A, insofar as its meaning is discernible. That would be completely inappropriate.

More generally, the Commission's proposal has other fundamental flaws that we understand have been the subject of extensive analysis in other comments. We would underscore our acute overall concerns that this rulemaking is not required by FECA or BCRA; proposes such fundamental and far-reaching changes in long-settled practices and legal understandings that it will unfairly disrupt ongoing plans, programs and operations, as well as have unforeseen consequences that nobody can predict; and it

could not be timed worse, since regulations adopted in May without any built-in delay of effective date would take effect just months or even weeks before the general election. This is a prescription for mischief and abuse that will consume the regulated community and the Commission for years to come, ignite litigation at the peak of the election season, sow massive confusion and deter political activity -- and all this while everyone affected has expended considerable effort converting their systems, practices and plans to BCRA, and is now experiencing the very first election cycle under the tremendous statutory and regulatory changes that Congress wrought in BCRA. We urge the Commission to withdraw the NPRM and, if it wishes, engage the regulated community and the public in a more thoughtful and considered dialogue, divorced from immediate partisan pressures and manipulation in the waning months of the 2004 election.

Thank you for your consideration of our concerns about this tremendously important matter.

Yours truly,

Amy Chapman
Executive Director