Amanda Cooper <amanda@tashmoo.com> on 04/09/2004 03:37:23 PM

To: politicalcommitteestatus@fec.gov
cc:

Subject: Governor Richardson letter to FEC

Governor Richardson letter to FEC 4-9-04.doc

Governor Bill Richardson

April 9, 2004

Via e-mail: politicalcommitteestatus@fec.gov

Mai T. Dinh, Esq.
Acting Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Notice of Proposed Rulemaking: Political Committee Status

Dear Ms. Dinh:

I am submitting these comments in response to the Commission's Notice of Proposed Rulemaking.

As an elected state official interested in promoting the empowerment of Latino/Hispanic and Native American citizens, I am actively involved in supporting the work of a number of nonprofit organizations, including some that are political organizations under section 527 of the Internal Revenue Code, but are not federal political committees under the federal campaign finance laws. For example, one of those organizations, Moving America Forward, Inc., is a New Mexico political committee engaged, among other things, in the training of Latino/Hispanic activists and in voter registration in the Hispanic community.

That organization has no connection with, and is operated entirely independently of, any federal candidate, officeholder or political party committee. Moreover, the organization has never made, and does not plan to make, any public communications referencing federal candidates.

Nevertheless, under the Commission's proposed rules, such an organization would become a federal political committee if it spent as little as $50,000 to conduct voter registration activities in Latino/Hispanic and Native American communities after July 5, 2004 (i.e., because even non-partisan voter registration conducted within 120 days of the election is "federal election activity"). There is no basis in the federal law, or in the policies underlying that law, for such a vast and far-reaching extension of federal campaign finance rules.

The legislative and constitutional basis justifying the modern federal election regulatory system has been the perception of corruption that has been associated with the direct involvement of federal elected officials in the raising of large sums of money from those with an economic or other interest in the outcome of federal policymaking. Thus

limits placed on the amount that an individual or a political committee could give to a candidate were upheld, while involuntary limitations on the amount a candidate could spend seeking to persuade and motivate voters were deemed unconstitutional. The Congress extended the contribution limitation to amounts donated to the official party committees in recognition of the close and formal relationship between the parties and federal officeholders.

When, nonetheless, federal officeholders and the national parties collected large donations from individuals, corporations and labor unions by establishing and actively participating in the fundraising for "soft money" accounts, Congress, in enacting the Bipartisan Campaign Reform Act, extended the limits and prohibitions of federal campaign finance law to such fundraising. That perceived evil, the direct personal involvement of federal and party officials in the raising of "soft money" funds, is not present with respect to donations made to non-profit organizations—whether organized under section 527 or under section 501(c) of the Internal Revenue Code--acting *independently* from any federal officeholder, candidate or political party.

Congress did not choose, in BCRA, to impose limits on those desiring to provide financial support to such non-profit organizations. Congress was well aware of the existence and activities of non-political committee 527 organizations and yet the BCRA did not elect to address such organizations other than to impose a prohibition on federal officeholders actively participating in the solicitation of funds for such groups.

If the scope of the Commission's regulation of independent nonprofit organizations is to be changed so extensively, such a change should be made by the Congress, after careful deliberation. The Commission should not take it upon itself to make such a change, and certainly not so late in a federal election campaign season.

For these reasons, the proposed regulations should not be adopted, and the Commission should not proceed with the present rulemaking.

Thank you for your time and attention to these important issues and for your consideration of my views.

Sincerely yours,

Bill Richardson