Atteckus@aol.com on 04/03/2004 12:39:20 PM

To: politicalcommitteestatus@fec.gov
cc:

Subject: Comment on Agenda No. 04-20

Dear Ms. Dinh,

I attach my comments to the Commission in "pdf" format.

All requirements specified in the notice of proposed rule-making are met within the attachment.

Please call me if there are any questions or problems at 617-501-5248.

Best regards,

Steven M. Gottlieb

FEC_Comment.pdf

Commenter:

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Addressed to:

Ms. Mai T. Dinh
Acting Asst. General Counsel
Federal Election Commission
Washington, D.C.

Intention to Testify:

None

April 3, 2004

Comments

Dear Ms. Dinh:

I write to direct comments to the Commission in regard to the proposed rules found in Agenda Document No. 04-20, and specifically to those portions of the proposed rules that suggest a change in the definition of a political committee under 11 C.F.R. §100.5.

Although Congress authorized the Commission to make regulations under the BCRA to effect its purpose, it did not and could not authorize the Commission to contradict the Constitution, nor the Supreme Court. The regulations proposed in Agenda Document No. 04-20 with respect to the definition of a political committee would work such a contradiction. The Committee lacks authority to redefine the term to include most not-for-profit entities.

Specifically, the Supreme Court upheld the McCain-Feingold Bill with respect to its impact on candidates, parties, for-profit corporations, labor unions and 527's. The Supreme Court also articulated that if the BCRA were intended to apply to not-for-profit organizations other than 26 U.S.C. §527 organizations, it would be unconstitutional. Such was in keeping with sustaining the Court's ruling to that effect in *F.E.C. v. Massachusetts Citizens For Life, Inc.*, 479 U.S. 238 (1986).

The proposed regulations are unconstitutional to the extent that the proposed rule change to 11 C.F.R. §100.5 portends to integrate under the definition of "political committee" organizations that:

1. Are formed specifically to disseminate political ideas;

2. Do not amass capital;

3. Have no shareholders (or other persons having a claim on its assets or earnings);

4. Obtain funds from persons who make contributions to specifically further the organization's political purposes;

5. Are not established by a business corporation or a labor union; and

6. Maintain a policy not to accept contributions from such entities.

F.E.C. v. Massachusetts Citizens For Life, Inc., 479 U.S. at 264.

Clearly, 2 U. S. C. A. §441b(c)(2) is inapplicable to such organizations.

For instance, it is unconstitutional for the Commission to declare the Sierra Club a political committee, even if it runs ads that advocate a particular vote in a federal election. Only if the Sierra Club coordinates with a political candidate or party would the Commission have the right to regulate. Such is true only because the Commission can regulate the associated candidate or party, not the MCFL-type not-for-profit organization. Such organizations are completely beyond the jurisdiction of the Commission and Congress.

I urge the Commission to decline to adopt the proposed rule change in regard to the definition of a political committee. It is unconstitutional and serves as an attempted gag on political discourse. This agenda is like a rotting mackerel at moonlight — it facially shines (an example of McCarthyism), and it literally stinks.