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FEDERAL ELECTION COMMISSION
Washington, DC 20463

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AGENDA ITEM

For Meeting of: 07-24-03

MEMORANDUM

TO: The Commission

SUBMITTED LATE

FROM: David M. Mason
Commissioner

SUBJECT: Proposed Amendment Addressing Gifts and Monetary Bonuses

DATE: July 23, 2003

During the Commission's consideration of the Title 26 Final Rules, I intend to propose the following amendments related to monetary bonuses by convention committees and primary and general election candidates accepting public funds. The amendments restrict the requirement for written contracts to bonuses paid after the date of the convention or election.

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Page 35, Line 3:

After the second occurrence of "bonuses" insert: "paid after the last date of the convention".

Strike page 143, Line 6 through page 144, line 2 and insert:

§ 9008.7 Use of funds

(a) * * *

(4) * * *

(xii) Expenses for gifts or monetary bonuses paid after the last date of the convention for national committee or convention committee employees, consultants, volunteers and convention officials in recognition for convention-related activities or services, provided that:

(A) Gifts for committee employees, consultants, volunteers and convention officials in recognition for convention-related activities or services do not exceed \$150 total per individual and the total of all gifts does not exceed \$20,000; and

(B) All monetary bonuses paid after the last date of the convention for committee employees and consultants in recognition for convention-related activities or services are provided for pursuant to a written contract made prior to the date of the convention and are paid no later than 30 days after the convention; and

* * * * *

25 Page 140, line 20, insert:

26

27 Sec. 9004.4 Use of payments.

28 (a) * * *

29 (5) Gifts and monetary bonuses. Gifts and monetary bonuses paid after the date of the
30 election shall be considered qualified campaign expenses, provided that:

31 (i) Gifts for committee employees, consultants and volunteers in recognition for
32 campaign-related activities or services do not exceed \$150 total per individual and
33 the total of all gifts does not exceed \$20,000; and

34 (ii) All monetary bonuses paid after the date of the election for committee
35 employees and consultants in recognition for campaign-related activities or
36 services;

37 (A) Are provided for pursuant to a written contract made prior to
38 the date of the election; and

39 (B) Are paid during the expenditure report period.
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41 Page 159, line 7, insert:

42

43 Sec. 9034.4 Use of contributions and matching payments.

44 (a) Qualified campaign expenses--(1) General. Except as provided in
45 paragraph (b)(3) of this section, all contributions received by an
46 individual from the date he or she becomes a candidate and all matching
47 payments received by the candidate shall be used only to defray
48 qualified campaign expenses or to repay loans or otherwise restore funds
49 (other than contributions which were received and expended to defray
50 qualified campaign expenses), which were used to defray qualified
51 campaign expenses.

52 * * * * *

53 (5) Gifts and monetary bonuses. Gifts and monetary bonuses paid after the date of
54 ineligibility shall be considered qualified campaign expenses, provided that:

55 (i) Gifts for committee employees, consultants and volunteers in
56 recognition for campaign-related activities or services do not exceed
57 \$150 total per individual and the total of all gifts does not exceed
58 \$20,000; and

59 (ii) All monetary bonuses paid after the date of ineligibility for committee
60 employees and consultants in recognition for campaign-related activities
61 or services:

62 (A) Are provided for pursuant to a written contract made prior to
63 the date of ineligibility; and

64 (B) Are paid no later than thirty days after the date of ineligibility.
65

66 Strike p. 20, Lines 8 through 14, and insert:

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68 The Commission has decided to narrow the requirements with respect to when a written
69 contract will be required for monetary bonuses. Because the Commission does not require
70 written contracts for other employer-employee relationships, the new rule is more narrowly

71 tailored to address the purpose of the restriction. The previous regulation was promulgated in
72 reaction to a publicly funded campaign paying large monetary bonuses after the election upon
73 discovery of excess public funds. The new rule addresses that abuse more directly while not
74 otherwise limiting employment arrangements, in recognition of the absence of an incentive to
75 waste public funds before the date of the election. Therefore, the new rule requires a written
76 contract only when monetary bonuses are paid after the election.

77

78 Strike p. 95, Lines 1 through 5 and insert:

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80 The NPRM sought comment on revising 11 CFR 9034.3(a)(5) regarding gifts and
81 bonuses paid to campaign employees, consultants, and volunteers. For the reasons explained
82 above in the explanation and justification for newly redesignated 11 CFR 9004.4(a)(6), the
83 Commission has decided to make a similar change to 11 CFR 9034.4(a)(5).