



FOLEY & LARDNER LLP

ATTORNEYS AT LAW

WASHINGTON HARBOUR
3000 K STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20007-5109
202.672.5300 TEL
202.672.5399 FAX
WWW.FOLEY.COM

WRITER'S DIRECT LINE
202.295.4081
cmitchell@foley.com EMAIL

CLIENT/MATTER NUMBER
999100-0101

October 27, 2015

VIA Electronic mail to ContributionPetition2015@fec.gov

Federal Election Commission
Attn: Robert M. Knop, Assistant General Counsel
999 E Street NW
Washington, DC 20463

Re: Comments Regarding FEC Notice 2015-10, REG 2015-03

Dear Mr. Knop:

These comments are in reference to REG 2015-03, the Rulemaking Petition concerning Contributions from Corporations and Other Organizations to Political Committees.

The requested rulemaking is illegal, as Congress has enacted no statutory changes to warrant a new rulemaking on this topic, despite the dreams and demands of the campaign finance jihadists, for whom there are never enough rules, regulations and restrictions on the free speech and association rights of the American people.

There is no statutory authority for the Federal Election Commission ("the Commission" or "the FEC") to undertake the creation of new restrictions, prohibitions, reporting and prohibitions on the ability of corporations and labor unions to make contributions to eligible political committees. The only FEC regulated entities to which corporations and labor unions are permitted to make contributions are Independent Expenditures Only political committees ("SuperPACs"). All contributions in excess of \$200 in a calendar year are already reported to the Commission.

The Supreme Court decision in *Citizens United v Federal Election Commission*, 558 U.S. 310 (2010) and *SpeechNow.org v FEC*, 599 F. 3d. 636 (D.C. Cir.2010) both recognize on First Amendment grounds the rights of citizens to make independent candidate-related expenditures, and that such rights apply not only to individuals, but also to corporations, labor unions and other legal entities. Those rights extend to the ability to make contributions from all such entities to political committees eligible by law to accept such contributions.

There is no statutory authority for the Commission to now attempt to circumvent the law and to impose draconian additional restrictions on donors to SuperPACs. That is well beyond the Commission's authority.

BOSTON
BRUSSELS
CHICAGO
DETROIT

JACKSONVILLE
LOS ANGELES
MADISON
MIAMI

MILWAUKEE
NEW YORK
ORLANDO
SACRAMENTO

SAN DIEGO
SAN FRANCISCO
SHANGHAI
SILICON VALLEY

TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.

<October 27, 2015>

Page 2

Those who demand such additional disclosure are hoping through such regulations to *discourage* corporations and others from making legally permissible contributions.

The pattern of the campaign finance jihadists is to demand disclosure in order that they can then vilify those who make such contributions. These people do not want transparency; they want a target list in order to chill the free speech and association rights of those with whom they philosophically disagree.

This is evident from the title of their Rulemaking Petition: Contributions from *Corporations* and Other Organizations to Political Committees. Note the absence of the reference to *Labor Unions*. They will, if the Commission undertakes such a rulemaking, attempt to influence the writing of the regulations to protect the labor unions from the same type of disclosure they want to apply to corporations. Yet, for the labor unions, disclosure of the underlying donors whose funds constitute such contributions would disclose for the first time *to the donors themselves* how the labor unions are using *their* money – likely obtained through compulsory union membership. That contrasts starkly with the contributions from non-profit corporations where the donors have *knowingly* and voluntarily contributed their after-tax dollars, or in the case of a for-profit corporation, have knowingly and voluntarily acquired stock in the company.

The bottom line is that there is no legal or statutory authority for the Commission to commence this rulemaking, it is at odds with established First Amendment principles, and is contrary to relevant case authority. The rulemaking petition arises from those who disagree with the holdings of the Court recognizing the First Amendment rights of the American people.

But their disagreement with that authority does not give rise to a legal capability on the part of the Commission to disregard it promulgate the requested regulations as a means of lessening the impact of case holdings with which they disagree.

The rulemaking petition in REG 2015-03 should be dismissed.

Sincerely,

/s/ Cleta Mitchell

Cleta Mitchell, Esq.