

January 15, 2015

VIA SERS.FEC.GOV RULEMAKING COMMENT PORTAL

Ms. Amy L. Rothstein, Esq.
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Comment on Advance Notice of Proposed Rulemaking 2014-01

Ms. Rothstein:

I write this letter in response to the Commission's October 17, 2014 request for comment "on whether to begin a rulemaking to revise other regulations in light of ... *McCutcheon v. FEC.*" My brief comments, which pertain to the topics of joint fundraising committees and disclosure, are made in my personal capacity as a legal practitioner and not on behalf of any client or any other person.

Joint Fundraising Committees

The Commission has asked whether it should revise its joint-fundraising rules in light of last year's *McCutcheon* decision by the U.S. Supreme Court.¹ Joint fundraising committees have been repeatedly disparaged, both before and after *McCutcheon*. But the Commission should be hesitant to add any additional restrictions on these committees that might significantly affect their operation. A joint fundraising committee is an important efficiency mechanism that simplifies the contribution process for donors, reduces fundraising costs, and provides participants access to funds that may be unavailable under ordinary circumstances. Use of joint fundraising committees has increased dramatically, with joint-fundraising receipts jumping from just \$52.5 million during the 2000 election up to \$1.07 billion in the 2012 election cycle. Election-accountable actors should be able to continue to engage freely in joint-fundraising efforts, particularly when they are expected to compete with unaccountable outside groups for funding in today's campaign finance landscape.

To the extent the Commission does amend its existing joint-fundraising rules, it should consider a recent trend by joint fundraising committees to spend money on activities that are

¹ 79 Fed. Reg. at 62363.

seemingly unrelated to raising funds.² This could be an attempt by some joint committee participants to circumvent contribution or coordinated expenditure limits. The Commission might therefore consider further clarifying in its joint-fundraising rules that joint fundraising committees are permitted only to sponsor activities that are intended to raise funds.

Disclosure

In its request for comment, the Commission repeated the *McCutcheon* decision's observation that disclosure requirements "may ... 'deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity.'"³ As someone who believes the existing patchwork of federal contribution limits and source prohibitions often undermines the valid public-policy purposes it claims to advance, I would welcome a renewed Commission focus on enhancing public disclosure.

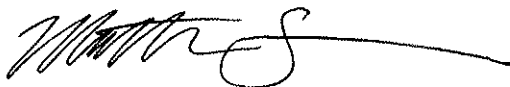
Voters deserve the opportunity to evaluate for themselves whether their elected representative has a conflict of interest, whether the election messages they see originate from a credible source, or whether the government program they fund has been bloated by possible rent-seekers. They need information to do so. And the Commission should do all it can, as a disclosure agency, to make this information more plentiful, accessible, and understandable.

A renewed focus on disclosure would lead the Commission to revisit past assumptions and take new actions. The Commission should, for example, reexamine whether its existing rules fully reflect the Federal Election Campaign Act's plain text and the Congress' intent. The Commission should also make a greater effort to facilitate third-party use of its databases by enhancing linking capabilities and utilizing APIs. Finally, the Commission should take a leadership role in helping the Obama Administration and Congress present related information, such as labor union disclosures, earmark certifications, and Federal Communication Commission "political file" reports, to the public in a centralized manner.

Conclusion

Thank you for the opportunity to comment. I ask, through this letter, for an opportunity to expand on my brief written points here at the Commission's upcoming February 11, 2015 hearing.

Respectfully Submitted,



Matthew T. Sanderson
Member
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² See, e.g., Paul Blumenthal, *Obama Victory Fund's Online Ads Push Campaign Finance Law*, Huffington Post (Oct. 2, 2012) (describing advertisements promoting a presidential candidate that did not have a fundraising component), http://www.huffingtonpost.com/2012/10/02/barack-obama-online-advertising_n_1932755.html.

³ 79 Fed. Reg. at 62363 (quoting *McCutcheon v. FEC*, 134 S. Ct. at 1459-1460).