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Federal Election Commission
Attn: Robert M. Knop
Assistant General Counsel
1050 First Street, NE
Washington, DC 20463

January 31, 2019

Dear Mr. Knop,

We represent one of the parties involved in the *Citizens for Responsibility and Ethics in Washington v. Federal Election Commission* litigation.

The Commission received a Petition for Rulemaking that seeks to revise the regulatory definition of the term “contribution” in light of Judge Howell’s decision in *Citizens for Responsibility and Ethics in Washington v. Federal Election Commission*, 316 F. Supp. 3d 349 (D.D.C. 2018). Any such rulemaking would be premature and should not be commenced at this time. As the Notice indicates, *CREW v. FEC* is currently on appeal before the D.C. Circuit.

The Petitioner is correct that Judge Howell’s decision to overturn decades-old regulations has caused confusion and created definitional inconsistencies. However, the Commission has addressed these issues in an appropriate manner by providing interim guidance while the decision is appealed. See FEC Press Release, *FEC provides guidance following U.S. District Court decision in CREW v. FEC*, 316 F. Supp. 3d 349 (D.D.C. 2018), Oct. 4, 2018, <https://www.fec.gov/updates/fec-provides-guidance-following-us-district-court-decision-crew-v-fec-316-f-supp-3d-349-ddc-2018/>.

Any formal rulemaking on the issues raised in Judge Howell’s decision should await the completion of the appeals process. If new regulations are needed after the pending litigation is complete, any final opinions issued will impact the Commission’s deliberations. In our view, it makes little sense for the Commission to proceed until pending litigation is complete.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Josefiak', with a stylized flourish at the end.

Thomas J. Josefiak
Michael Bayes