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AGENDA ITEM

For Meeting of: 10-28-04

MEMORANDUM TO THE COMMISSION

From: Vice Chair Ellen L. Weintraub *ELW*
Commissioner Michael Toner *MT*

Subject: Amendments to Agenda Document 04-100

Date: October 27, 2004

SUBMITTED LATE

We propose the following amendments to Agenda Document 04-100:

Page 4, lines 20 – 21: Delete sentence that begins “See also . . .”.

Page 6, line 9: Insert “After determining that a clearly identified candidate is mentioned,” before “New section . . .”.

Page 6, line 10: After “communication.” insert “The regulation turns on the plain meaning of the words used in the communication and does not encompass implied meanings or understandings.”

Page 6, lines 17 – 19: Delete sentence that begins “For example, funds received . . .”.

Page 7, lines 15 – 16: Underline “make sure Californians remember in November.”

Page 7, lines 17 – 19: Delete all text.

Page 10, line 2: After “FECA.” insert “These contributions will not transform an MCFL corporation into a political committee unless its expenditures and contributions become so extensive as to lead to a conclusion that the organization’s major purpose is campaign activity.”

Page 10, line 3: Delete “in no way”. Insert “not”.

Page 10, lines 3 – 7: Delete sentence that begins “Moreover, an . . .” through end of paragraph.

Page 10, line 14: Delete “can”; insert “may”. Delete “explains”; insert “states”.

Page 10, line 16: Delete “e.g.”.

Page 12, line 8: Delete “(\$12,000 x2 = \$24,000. \$30,000 – \$24,000 = \$6,000)”.

Page 17, line 19: Insert “As noted in 106.6(a), political committees required to allocate under this section do not include party committees and the authorized committees of any candidate for federal election.”

Page 18, line 16: Insert “may” after “that”. Delete “both”. Add “do refer to” at end of line, after “and”.

Page 18, line 17: Add “,” after “candidates”.

Page 24, lines 2-3: Delete sentence that begins “In general, . . .”. Insert “Little attention was focused on allocation issues during the public comment period. Fewer than 10 comments provided a substantive response to the allocation issues raised in the NPRM.”

Page 29, line 16: Delete “a political party and”.

Page 29, line 21: Delete “a political party and”. Between “candidates,” and “as” insert “with or without a reference to a political party,”.

Page 30, line 13: Insert at end of paragraph: “Voter drives and public communications that refer to clearly identified Federal candidates, without any reference to political parties or non-federal candidates, similarly must be paid for with 100% Federal funds from the Federal account.”

Page 30, line 13: Place footnote after insert at the end of the paragraph: “Because Part 106 of the Commission's regulations apply only to separate segregated funds and non-connected committees, the final rules do not apply to the activities of other types of political committees, including state and local party committees, which are subject to separate allocation rules. See 11 CFR Secs. 300.30, 300.31, 300.32, 300.33 (establishing allocation rules for state and local party committees).”

Page 31, lines 5 – 7: Delete sentence that begins “That portion of Advisory Opinion . . .”. Insert “Advisory Opinion 2003-37 is hereby superseded.”

Page 33, line 15: Delete “a large number”. Insert “tens of thousands”.

Page 34, line 16: Delete “of the type then well known”.

Page 36, line 7: Delete “.”. Insert “; see also Buckley, 424 U.S. at 79.”

Page 37, lines 8 – 9: Delete “While the Commission does not agree with all the comments regarding “major purpose,” these”. Insert “The”.

Page 37, line 19: Delete “For that matter, the”. Insert “The”.

Page 37, line 20: Delete “that the”. After “construct” insert “that limits the reach of the statutory triggers in FECA for political committee status. The” After “applying” insert “this construct”.

Page 37, lines 21 – 22: Delete “in response to advisory opinion requests and through enforcement actions.” Insert “in the future”.

Page 39, lines 21 – Page 40, line 5: Delete.

Page 50, lines 21 – 23: Delete “(iii) Public communications that refer to a political party, and refer to one or more clearly identified Federal candidates, but do not refer to any clearly identified non-Federal candidates; and”. Insert “Public communications that refer to one or more clearly identified Federal candidates, regardless of whether there is reference to a political party, but do not refer to any clearly identified non-Federal candidates; and”.

Page 51, lines 19-21: Delete “(i) Public communications that refer to a political party, and one or more clearly identified Federal candidates, but do not refer to any clearly identified non-Federal candidates”. Insert “Public communications that refer to one or more clearly identified Federal candidates, regardless of whether there is reference to a political party, but do not refer to any clearly identified non-Federal candidates; and”.

