



"Valerie Phillips - Legal"
<VPhillips@rnchq.org>

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To <travel07@fec.gov>

cc "Sean Cairncross - Legal" <SCairncross@rnchq.org>

bcc

Subject RNC Candidate Travel Comments

Attached. Thank you.

Valerie Phillips

Director of Staff and Special Projects

Counsel's Office

Republican National Committee

310 First Street, SE

Washington, DC 20003

202.863.8777 direct

202.863.8654 fax

www.gop.com



Candidate Travel Comments 111307.pdf

November 13, 2007

BY ELECTRONIC MAIL

Amy L. Rothstein, Esq.
Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: *Non-Commercial Air Travel*

Dear Ms. Rothstein:

The Republican National Committee (“RNC”) writes to comment on the Federal Election Commission’s (the “Commission”) Notice of Proposed Rulemaking on rules implementing section 601 of the “Honest Leadership and Open Government Act of 2007,” Pub. L. 110-81, 121 Stat. 735, (the “Act”) addressing non-commercial air travel. The RNC files these comments related to both the scope of any new regulations’ application, and how reimbursement for non-commercial air travel should be allocated where covered and non-covered travelers are flying together.

Prior to the Act, non-commercial air travel was reimbursed under 11 C.F.R. § 100.93. This section applies not only to federal candidates and their authorized committees, but to all “campaign travelers,” a category defined in part as “any individual traveling in connection with an election for Federal office on behalf of a candidate or political committee.” The Act, however, is clear that it applies to House, Senate, and presidential candidates, and candidates’ authorized committees – nowhere does the statute suggest or contemplate extending the full charter reimbursement rate to parties outside those specified in the Act. 2 U.S.C. § 439a(c). Despite this, the Commission’s

NPRM contemplates extending the charter reimbursement rate beyond the Act’s express language by applying that rate to “campaign travelers.” Congress, however, could easily have increased the Act’s scope had they so intended – BCRA, after all, is not only a recent piece of legislation, but is legislation that members of Congress themselves interact with on a day-in-day-out basis. The Commission should not assume a legislative role and expand the Act beyond Congress’s express language and clear intent.

Accordingly, the RNC asks the Commission to adopt Alternative 2, proposed in Section IV-D of the NPRM.

Further, the RNC requests the Commission address the following scenario and interpretations in order to provide guidance to the regulated community.

Scenario: The Chairman of the RNC and a Senate candidate both travel aboard a non-commercial plane from Washington, D.C. to Minnesota for a campaign related event. Since the Senate candidate must reimburse at the Act’s full charter rate, the RNC believes that the RNC Chairman should not have to reimburse for that travel. Such travel may be recorded as an in-kind transfer from the Senate candidate to the RNC. In short, the statute trumps the pre-existing regulatory requirement that non-authorized committee personnel reimburse at the first class rate for their travel costs. To find otherwise would be a windfall to the plane’s owner – or, if the first class rate was subtracted from the candidate’s full charter cost, a contribution to the candidate.

Section 601 of the Act is express in its scope, and that scope does not include national, state, or local political party committees, or other non-authorized committees. The Commission should not assume Congress's role and extend the Act beyond its terms.

Sincerely,

For the Republican National Committee:

A handwritten signature in black ink, appearing to read "Sean Cairncross". The signature is fluid and cursive, with a period at the end.

Sean Cairncross
Chief Counsel

310 First Street, SE
Washington, D.C. 20003