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July 21, 2009

Robert Hickey
Staff Director
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Web Site and Internet Communications
Improvement Initiative

Dear Mr. Hickey:

I have practiced before the Federal Election Commission for some years and welcome this opportunity to comment on some of the questions posed and issues raised in the Commission's July 1, 2009 notice concerning its website and Internet communications. This initiative is extremely welcome and the notice is both through in its inquiries and highly informative in itself concerning the current scope of the Commission's website and the possibilities of expanding and improving it. Although my comments are brief and do not address most of the specific matters raised by the notice, that is so because of time constraints and the fact that I am not in an informed position to address many of the technical and website-comparative questions that the notice raises. I believe that all aspects of the notice raise worthwhile matters, and I trust that others will address them.

The website has become progressively more comprehensive and usable in recent years, and I urge the Commission to devote whatever resources are reasonably available to continuing that process. The more information that is posted, and the more accessible it can be made to the website's diverse users, the more that individuals and organizations can understand, comply with and constructively influence the Commission's administrative, enforcement and policy initiatives and management. And, for lawyers who advise those who are directly regulated by the Federal Election Campaign Act ("Act"), the website is an invaluable resource, particularly because, to my knowledge, commercial providers of legal resources and information do not treat campaign finance and election law as a distinct area of the law in organizing and presenting their materials.

I believe the Commission should make it a priority to add legal materials to the website that directly relate to the meaning and application of the Act, and to make it as word-searchable as possible both within each category of materials and within selected groupings of these categories. This would include:

1. The complete legislative history of the Act and all of its amendments. I believe none of this material is on the website, at least as so categorized, and most of it is unavailable in any organized fashion elsewhere.

2. Documents relating to rulemakings from the beginning, at least in the manner now available for those that have occurred in recent years.

3. Documents relating to advisory opinions dating from the beginning, at least in the manner now available for advisory opinions in recent years.

4. Documents relating to closed Matters Under Review, insofar as documents would be placed on the public record now consistently with applicable law and Commission policy, similarly dating from the beginning.

5. At least insofar as available now, transcripts of Commission proceedings. (I recognize that, unlike most of the other materials I describe, most transcripts would have to be created rather than simply digitized or otherwise converted to an electronic format from existing hard-copy materials, and that this could be particularly costly.)

6. Judicial decisions on the merits in cases to which the Commission has been a party, again dating from the beginning, rather than, as now, only decisions in recent years; and, although of less urgency, the key briefs of the parties and *amici curiae* in those cases at the merits stages.

7. At least, United States Supreme Court, federal courts of appeals and state supreme court merits decisions concerning state and local campaign finance laws, given that principles and doctrines developed in these decisions frequently affect, often quite directly, to interpretation of the Act itself.

8. Legal treatises, law review articles and other scholarly analyses of the Act. Of course, commercial and proprietary rights may preclude many or most of such postings, but they should be posted where there are no such impediments, and at the very least the website should link to or list those that cannot be made directly available.

Let me make a few additional comments.

First, the weekly digest is a very useful method to advise the public about recent developments and new materials on the website. This feature should continue and should alert the public to any changes in the website more generally.

Second, in organizing the website, I believe the Commission should do so more on the nature of the material than on particular audience segments. Information should be organized and presented thematically on its own terms rather than on the basis of which consumers the Commission believes might be particularly interested in or even affected by which items. The

website could include pages addressed to for particular audience segments that enable them to access through links materials elsewhere on the website that are most likely of importance and interest to them, along with a general overview of the organization of the entire website.

Third, the Commission's educational programs are not reasonably accessible, for resource or travel reasons, to many who might benefit from them. The Commission should explore the utility of webinars and other electronically-based means to inform and train committees and groups in an interactive manner.

Finally, given the nature of the matters raised in the notice, it seems that the Commission could undertake a regular and ongoing process of engagement with regulated groups, technical experts and others in order to elicit advice about the Commission's website and internet communications on an informal basis, without having to do so via Federal Register notices and formal comments and hearings, useful as those may be, especially at the outset now. Insofar as the Commission has legal leeway to do so, it should.

Thank you for your consideration of these comments.

Yours truly,

Laurence E. Gold