



... And a Quick Reply to Two Assertions by the Reformers

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The reformers make two assertions in their comments to the Commission that need addressing.

First, they say that arguments in favor of hybrid ads do not comport with the Commission's allocation formulas, but merely skirt limitations on in-kind contributions:

The premise of this argument is that half of the ad simply did not influence the election of the candidate named in, and promoted by the ad, and instead had some "generic" impact that is *not attributable to any candidate campaign*. The result of the argument is that half of the cost of the ad is functionally taken off the books – it is not counted as a party coordinated expenditure for purposes of the party's section 441a(d) limit.

Reformers at 3 (emphasis added).

The reformers assert that if there is coordination between the party and the named candidate then the entire value of the ad must go against the 441a(d) limit. This result ignores the fact that the party committee is an autonomous entity, has a right to associate with the named candidate, while caring about down-ticket candidates. The named candidate has paid its share and thereby avoids receiving an in-kind contribution. The balance of the ad's value is attributed to the party committee. Why isn't the value of the party committee's purported portion of the ad attributable to some other named candidate, the reformers seem to ask. Answer: Because the party committee did not coordinate the ad with any other down-ticket candidates. This is the teaching of *Colorado Republican I*, as affirmed in *McConnell v. FEC*. Party committees may spend independently of other candidates.

Second, the reformers assert that: "The value of a party-disseminated public communication identifying one or more Federal candidates inures entirely to the party's candidate(s) – regardless of whether a generic party reference is included in the communication[.]" (Reformers at 11).

In other words, say the reformers, the party committees never really believe that their candidates benefit by tying an election to the fate of another candidate or public figure. They know that candidates only benefit by direct reference. The party committees merely assert a benefit in tying an ad to a named candidate to perpetuate a "scheme to evade the spending limits." (Reformers at 2).

The reformers, however, should recall the 2004 Senatorial race between Democratic Governor Tony Knowles and Republican Senator Lisa Murkowski. For months, Knowles

led Murkowski in the polls by significant margins, and the NRSC's advertising was not helping her. Finally, the NRSC decided to cut a new ad with a new approach. The NRSC decided to tie the Murkowski race to the fate of Alaska Senator Ted Stevens, the biggest pork-barreller West of West Virginia -- just as the Republican party tied the fate of "Leaders in Congress" to President Bush.

The NRSC's ad scarcely mentioned Murkowski. Instead, it reminded Alaskans that the Republican majority was at stake in the Senate, and of all the federal largesse they had gained from Stevens over the years, then simply asked Alaskans to remember that, "A vote for him [Knowles] is a vote against him [Stevens], and you can't afford that."

Miraculously, Murkowski came from behind to defeat Knowles. Murkowski was not even mentioned in the ad, yet she enjoyed all of the benefit of being tied to Stevens, and the NRSC knew it. The reformers may reply that Stevens was not even a candidate in 2004. But this fact only damages their broad assertion. For if the party committees believe, as the reformers suggest, that referencing someone other than the candidate the party committee wants to elect will have no effect, the NRSC could only have wasted money in tying its candidate to Stevens.

We all know, however, that was not the case.

This information was found online at:

http://www.campaignfreedom.org/blog/id.308/blog_detail.asp