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To "CoordinationShays3@fec.gov"
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cc
bcc
Subject Citizens United v. FEC, etc. and FEC Statement of Feb 5,
2010

In your most recent press release dated February 5, 2010 (<http://www.fec.gov/press/press2010/20100205CitizensUnited.shtml>) you indicate towards the bottom that "The Commission notes that the prohibitions on corporations or labor organizations making contributions contained in 2 U.S.C. 441b remain in effect." This seems inconsistent with a statement in that same release that says "The Court struck down 2 U.S.C. 441b, which prohibits, in part, corporations and labor organizations from making electioneering communications and from making independent expenditures—communications to the general public that expressly advocate the election or defeat of clearly identified federal candidates."

If 2 U.S.C. 441b has been apparently completely struck down as being unconstitutional, then how can the FEC prohibit corporations or labor organizations from making contributions contained in that section without being in Contempt of (the Supreme) Court? This apparently makes up at least part of the request from the James Madison Center for Free Speech to repeal parts of 11 CFR Part 114 (clauses 2,4,9,10,14,15). Having looked at the entire section in question at

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=e9f8b71929dcfa7ee85d296af7e5ab2c&rgn=div5&view=text&node=11:1.0.1.1.21&idno=11>, it would appear that the best way to go about conforming the Part to the Court's ruling is to rewrite the entire part as soon as possible as a new part 114.

For example, the Citizens United v FEC decision may have in effect, eliminated the notion of a "restricted class" as mentioned in 114.1 "Definitions". Since I am not a legal scholar, I can't be sure if this a logical conclusion based on the decision of the Court. If such classes can no longer be "restricted" as they have been prior to this decision, then the entire part would have to be virtually scrapped since all of the sections would probably need at least a minor rewrite to bring them in accordance with Citizens United.

Can you, at the very least, clarify how the two sentences in paragraph one of my letter can be reconciled with one another? I don't think that is presently possible-- and neither would the James Madison Center (whom I have absolutely NO AFFILIATION with). This is why a new release should be issued ASAP to eliminate any references to the FEC enforcing any part of 2 U.S.C. 441b as soon as possible-- even before part 114 is rewritten in whole or in part-- to clear up this apparent Government "doublespeak".

Sincerely,

Shawn S Fahrer
Queensborough Community College Student

P S. I have (on two occasions) commented on matters before the SEC (as an Accounting student, that is more in my limited expertise as an Associates degree candidate). The SEC makes commenting on proposed rules far easier than the FEC. Why is that the case? You should have a way by which members of the public can comment directly on pending FEC rulemaking (as exists for comments on pending SEC rulemaking), as opposed to writing an email to a particular

address via one's own email account (which may not be as secure as a site run by the FEC could be for accepting comments). Please let me know if any such changes are planned for in the future. Thank you for giving the public an opportunity to get our two cents in based on this change in legal interpretation.