



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

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2002 NOV 21 A 9 38

MEMORANDUM TO THE COMMISSION

FROM: CHAIRMAN DAVID MASON *DM*
SUBJECT: EX PARTE COMMUNICATION
DATE: NOVEMBER 21, 2002

I have received the attached ex parte communication on the Other Provisions rule urging us to permit payment of salaries to candidates.

November 20, 2002

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The Honorable David Mason, Chairman
Federal Election Commission
999 E Street, N. W.
Washington, D.C. 20463

Re: Late Submission Regarding Rulemaking on Personal Use of Campaign
Funds: Salaries to Federal Candidates

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2002 NOV 20 P 4:05

Dear Chairman Mason:

I am aware that the period for submitting comments on the Commission's proposed regulations under the Bipartisan Campaign Reform Act of 2002 ("BCRA") regarding the proposed use of campaign funds has passed. Please consider this a late submission regarding the proposed regulations.

Over the past several years, the Commission has entertained questions as to whether a federal candidate would be permitted to pay himself/herself a salary from funds contributed to the candidate's principal authorized committee. The Commission and legal staff have wrestled with this question, even to the point that a recent AOR resulted in two separate drafts being submitted to the Commission: one draft which stated that the law permitted such payments; the other draft (which was ultimately adopted by the Commission) which found that the law did not permit salaries to be paid to candidates. See AO 1999-1.

My comments today urge the Commission to include in the final regulations under BCRA a provision which specifically authorizes a non-incumbent candidate for federal office to pay himself/herself a salary and benefits limited to the amount of salary and benefits received by a federal officeholder seeking the same office. An incumbent federal office-holder should not be eligible to receive payments under this provision.

Having run for (and been elected to) public office at the state level and having recruited many persons to become candidates for office at the local, state and federal levels, I can assure you that the threshold question for every individual who is not independently wealthy is "how can I support myself and my family while running for office?"

Running for federal office is a full-time job. Most employers (including the federal civil service) do not allow an employee to remain on the payroll while also serving as a candidate for federal office. Only the wealthy individual – or an incumbent federal officeholder—can continue to draw his/her normal salary while seeking election to office.

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The Honorable David Mason, Chairman
Federal Election Commission
November 20, 2002
Page 2

Those who are willing to contribute to a federal candidate's campaign committee obviously are interested in supporting the candidate for election. And a key component of supporting a candidate for election is making certain that normal people can afford to run for office without fearing that their mortgage and car payments cannot be paid.

The Commission should memorialize an important public policy imperative that non-wealthy candidates and non-incumbents are still welcome in the American electoral process. The most important decision in that regard will be made by the Commission in the regulations under consideration, to clearly allow a non-federal officeholder to be paid a salary as a candidate equal to that of a federal officeholder.

A wealthy candidate doesn't need the assistance – just as a wealthy, self-financed candidate doesn't need as much in the way of financial assistance and contributions from others to the candidate committee. Congress clearly evidenced a concern about wealthy, self-financed candidates with its inclusion of the 'millionaires' amendment' in BCRA. The Commission should make certain that the wealthy candidate's advantage isn't just in terms of contribution limits – but also, with respect to the ability of a non-wealthy candidate to support himself/herself and his/her family while running for office.

Candidates of modest means are individuals who should still be encouraged to run for Congress, and they do need such an allowance. Hopefully, the Commission will take the opportunity to include such a provision in the new regulations. All such payments would then be reported to the Commission and publicly disclosed in accordance with all other disbursements by the principal authorized candidate committee.

I urge the Commission to adopt such a provision. Thank you for your consideration.

Sincerely,



Clea Mitchell, Esq.
Attorney at Law

cc: Members of the Commission