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09/28/2005 09:51 AM

To <FEAdef2@fec.gov>
cc
bcc
Subject

Pursuant to the reopening of the comment period, please find attached my comments regarding federal election activity. If you have any questions or are unable to open, feel free to call me at 919.832.2666.

Thanks.



Scott Falmlen FEC Comments - FEA.pdf

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Comments of Scott Falmlen
On the Proposed Regulations Governing
Definition of Federal Election Activity

From 1995-1999, I served as Executive Director of the Florida Democratic Party. From 1999-2005, I served as Executive Director of the North Carolina Democratic Party. In addition, from 2001-2005, I served as President of the Association of State Democratic Executive Directors. I offer these comments as an individual and not on behalf of any organization.

Prior to BCRA, many state party committees had de-centralized Get-Out-The-Vote (GOTV) programs whereby local party organizations planned, organized, and executed local GOTV plans in consultation with the state party. In most instances, the state party provided the funding for these plans by transferring the appropriate proportion of federal and non-federal funds directly to the local party organization for the implementation of their own, locally created and implemented, get-out-the-vote programs. This past practice had the consent of the FEC.

With the enactment of BCRA, state party committees were forced to centralize its GOTV process solely within the state party operation for two reasons: 1) the desire to shield local party organizations from the difficult and incredibly complex compliance and reporting requirements of the FECA that was created by the BCRA and 2) the requirements that Levin Activity be paid for solely with funds that were raised solely by each respective party committee. State parties

either had to transfer federal funds to each local committee to pay for GOTV activity (which probably would have automatically forced each committee to register with the FEC) or each local committee would have been forced to raise its own funds itself, without the assistance of the state party committee. Realistically, local committees in North Carolina are not able to raise any significant sums of money without state party assistance. Therefore, this made our past practice of delegating GOTV functions to local party committees legally and financially prohibitive. Local party organizations simply do not have available to them the legal expertise or staff to comply with the increasingly complex requirements of the BCRA or the resources to raise enough funds to finance a GOTV program.

There were many negative side effects to the centralization of these efforts. Chief among them, the logistical nightmare of centrally organizing personnel and payroll records for thousands of employees and/or contractors disbursed throughout the state; security and delivery of payroll checks; and, from a purely political standpoint, the loss of political clout and direct organizing ability of local party organizations.

It is my understanding that the drafters of the BCRA created the barriers to transferability of Levin funds due to their concerns that Levin fundraising would be abused by party committees. The reality couldn't be further from the truth. In fact, most state party committees failed to avail themselves of Levin fundraising due to the difficulty in raising such funds as well as the complexity of complying with the administration and reporting of Levin funds. Ultimately, most state parties chose to pay for Levin activities solely with Federal funds.

I strongly encourage the FEC to consider amending its regulations to exempt local party

organizations from the requirements of FECA when the state party has transferred said funding in the same proportion (most likely 100% federal) that the state party would have paid for such services or activity had it made the disbursement directly on its own behalf. I would further encourage the Commission to resist the temptation to further expand the definitions of Levin activity. The current rules already inhibit the state party's ability to work with its local committees. Expanding the definitions will only further exacerbate the problem.

Furthermore, relating to other proposed rulemakings on other grassroots activity such as voter registration and voter identification, I would encourage the Commission to consider the realistic circumstances that local and state party organizations work under.

The overwhelming majority of voter identification work done by local party organizations is for the benefit of state and local candidates. While some consideration should be given to the small proportion of work by these organizations that does benefit federal candidates, the regulations and rules should be proportionate to that share. In addition, because of the lack of legal, technical, and financial resources available to local party organizations, any such rules and regulations should be as concise and easy to understand and interpret as possible.

Voter registration activity is the first and, some would say, one of the most intimidating part of our electoral system. Unlike other parts of election campaigns that directly impact on whether a voter goes to the polls or how that voter actually votes, voter registration is somewhat more benign, although obviously no less important. I strongly encourage the Commission to use whatever discretion it has to keep voter registration activity as free of regulation as possible for all entities.

The current definition which requires the party's representatives to actively *assist* in the actual act of registering seems to be a fair balance that comports with the law. Any attempt to expand that definition to also cover activity such as responding to an inquiry of someone who calls or stops by the party office or simply reminding citizens of registration deadlines seems to be overkill.

Thank you for this opportunity to submit these comments.