

March 4, 2013

Submitted Electronically (secretary@fec.gov)

Ms. Shawn Woodhead Werth
Commission Secretary
Federal Election Commission
999 E Street NW
Washington, DC 20463

Re: Comments on Draft Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements

Dear Ms. Werth:

These comments are submitted jointly by the Campaign Legal Center and Democracy 21 in regard to the Draft Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements published by the Commission on January 31, 2013. The purpose of the draft rule is to clarify the Commission's interpretation of reporting requirements "as they apply to the reporting of certain itemized disbursements by political committees to vendors." Draft Interpretive Rule at 2. Specifically, the rule would clarify the application of reporting requirements in three situations:

- (1) the committee reimburses an individual (such as a campaign staffer) who used personal funds to pay committee expenses aggregating more than \$200 to a single vendor;
- (2) the committee is the authorized committee of a candidate who used personal funds to pay committee expenses aggregating more than \$200 to a single vendor without receiving reimbursement; and
- (3) the committee's payment of its credit card bill includes charges of more than \$200 to a single vendor.

Id.

The draft rule makes clear that, in all of these situations, the committee "must itemize as a memo entry on Schedule B the name and address of the original vendor, as well as the date, amount, and purpose of the original purchase made for or by the political committee." *Id.*

The Campaign Legal Center and Democracy 21 support this draft interpretative rule and agree with the Commission that the rule is necessary to ensure disclosure of "where political

money comes from and how it is spent.” *Id.* at 3 (quoting *Buckley v. Valeo*, 424 U.S. 1, 66 (1976)).

In addition to clarifying that certain (1) committee reimbursements to individuals that paid campaign expenses, (2) candidate payments of committee expenses, and (3) committee payments of credit card bills require Schedule B memo entry itemization, we urge the Commission to likewise require committees to itemize, using a Schedule B memo entry, any payment of more than \$200 by a committee’s vendor to a subvendor on behalf of that committee.

Much in the same way a committee must report both a disbursement to a credit card company and “any transaction with a single vendor charged on the credit card that exceeds the \$200 itemization threshold,” *id.* at 5, so too should a committee be required report both a disbursement to a vendor and any transaction between that vendor and a subvendor on behalf of the committee that exceeds the \$200 itemization threshold.

The Commission’s regulations require that “a receipt or invoice from the payee or a cancelled check to the payee . . . be obtained and kept for each disbursement in excess of \$200 by or on behalf of[] the committee.” 11 C.F.R. § 102.9(b)(2). An invoice from a payee/vendor to a committee would likely document payments that vendor made to subvendors on behalf of the committee. Any such payments from a vendor to a subvendor exceeding \$200 should trigger Schedule B memo entry itemized disclosure. Such a requirement would be consistent with and would further the purposes of the disbursement disclosure requirements at 2 U.S.C. § 434(b)(5), (6), 11 C.F.R. § 104.3(b)(3)(i), (vii) (unauthorized committees), 11 C.F.R. § 104.3(b)(4)(i), (vi) (authorized committees) and 11 C.F.R. § 104.9(a), (b)—the statute and regulations being interpreted by this pending rule.

More simply put, when a vendor such as a campaign consultant spends money on behalf of a committee through payments to various subvendors, the payments to the subvendors should be disclosed. For example, if a committee pays a consultant \$100,000 to produce and distribute a television advertisement and the consultant, in turn, pays a production company \$20,000 to create the advertisement and pays a television station \$80,000 to air the advertisement, the consultant’s payments of \$20,000 to the production company and \$80,000 to the television station should each be reported as separate Schedule B memo entries for the \$100,000 disbursement by the committee to the consultant.

Such payments from committees to consultants who orchestrate advertising campaigns, fundraising and other campaign activities are common, yet committees typically disclose only the payment to the consultant and voters are denied information regarding how this “political money . . . is spent.” *Buckley*, 424 U.S. at 66.

We appreciate the opportunity to submit these comments.

Sincerely,

/s/ Fred Wertheimer

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