



"Hoersting, Steve" <SHoersting@nrsc.org> on 09/19/2003 08:45:24 AM

To: multicand03@fec.gov
cc: Senior Staff <SeniorStaff@nrsc.org>

Subject: Comments of NRSC on Multicandidate Committees and Biennial Contribution Limits

Dear Mai,

Please find attached the comments of the NRSC regarding the Commission's NPRM re: Multicandidate Committees and Biennial Contribution Limits.

Steve Hoersting
General Counsel
National Republican Senatorial Committee
phone: (202) 675-6086 fax: (202) 675-6058

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Please find attached the comments of the NRSC regarding the Commission's NPRM re: Multicandidate Committees and Biennial Contribution Limits.

Steve Hoersting

National Republican Senatorial Committee

Stephen M. Hoersting
General Counsel

September 19, 2003

Ms. Mai Dinh
Acting Assistant General Counsel
Federal Election Commission
999 E. Street NW
Washington, DC 20463
multicand03@fec.gov

VIA ELECTRONIC MAIL

Re: Multicandidate Committees and Biennial Contribution Limits

Dear Ms. Dinh:

By and through the undersigned counsel, The National Republican Senatorial Committee submits a comment on just one of the provisions in the Commission's Notice of Proposed Rulemaking on Multicandidate Committees and Biennial Contribution Limits.

The National Republican Senatorial Committee ("NRSC") is an unincorporated association formed in 1916 and comprised of sitting Republican members of the United States Senate. The NRSC's primary function is to aid the election of Republican State candidates and otherwise support the goals of the Republican Party.

The NRSC respects the efforts of the Commission in this area and appreciates the opportunity to comment.

The Biennial Aggregate Limit

Because roughly one-third of the United States Senate runs for re-election every two years, the Commission's interpretation of the individual aggregate limit

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affects Senatorial candidates more than candidates for the House of Representatives or for the President of the United States. A Senator raises funds for future races in each year of his or her tenure. The Commission's longstanding interpretation of the aggregate limit has accommodated this circumstance quite well: A contribution to a candidate counts against an individual's aggregate limit for the year (now biennium) in which the candidate is in cycle.

Contributions no less than expenditures are forms of speech and association entitled to protection under the First Amendment. *Buckley v. Valeo*, 424 U.S. 1 (1976). Contributions may be limited to reduce the likelihood of quid pro quo corruption or its appearance, but not to remove the overall amount of money from the political system. *Id.*

The touchstone for interpreting an individual aggregate limit under *Buckley* is to ensure that no individual may get more money to a candidate than can another. *Buckley* at 38 (This "modest restraint upon protected political activity [the individual aggregate limit] serves to prevent evasion of the ... contribution limit by a person who might otherwise contribute massive amounts of money to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate"). But observing this maxim should not preclude contributions for future races to go against aggregate limits in corresponding biennia. Nor should it be interpreted to make an individual's right to associate with a candidate dependent upon the passage of time, as would occur in interpreting the aggregate limit to dissuade individuals from assisting candidates with campaign debts within otherwise permissible dollar limits.

But the NRSC understands that whatever the purpose of the individual aggregate limit, the language of 2 U.S.C. 441a(a)(3) has changed substantially.

Therefore, the NRSC requests that should the Commission alter its interpretation of the individual aggregate limit, that it not make effective the interpretation until January 1, 2005. The NRSC has explained to literally thousands of potential donors, through one medium or another, that one's individual aggregate limit tracks the biennium in which the candidate is in cycle. Many of these donors have relied on this information in their planning their respective contribution schedules for the 2003-2004 biennium.

Conclusion

The NRSC appreciates the opportunity to comment on this rulemaking but has no interest in offering additional testimony.

Respectfully submitted,

Stephen M. Hoersting

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