



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MEMORANDUM**

**TO:** Rosemary C. Smith  
Associate General Counsel

**FROM:** Office of the Commission Secretary *D.H.*

**DATE:** April 19, 2004

**SUBJECT:** *Ex Parte* Communication  
Re: Political Committee Status Rulemaking

Attached is an email received by Commissioner Toner regarding "527" and "501(c)(3)" organizations.

**cc:** Commissioners  
Staff Director  
General Counsel  
Press Office  
Public Disclosure

**Attachment**



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2004 APR 19 P 4: 10

**MEMORANDUM**

**DATE:** April 19, 2004

**TO:** Mary Dove, Commission Secretary

**FROM:** Michael E. Toner, Commissioner *mt*

**RE:** *Ex Parte* Communication regarding the Rulemaking on Political Committee Status

I received the attached email regarding the Political Committee Rulemaking.



Jerry Landay <jerry.landay@verizon.net> on 04/14/2004 05:03:41 PM

To: commissionertoner@fec.gov  
cc:

Subject: Fw: 527s and c-3s

> Subject: Fw: 527s and c-3s

>

>

> > > Dear Commissioner Toner:

> > > >

> > > > I have just published a major study on the vast GOP 501-(c)-3  
> > > political-action operation which has been engaged in partisan politics  
> > since

> > > the late 1970s. I bring it to your attention as an important  
dimension

> > of

> > > the GOP action to limit 527s -- but not 501-(c)-3s -- a tactic that  
> > demands

> > > FEC attention. FYI, I am a retired, former ABC-News and CBS-News  
> > > correspondent > who now writes on current issues.

> > > > I paste the article below. Thanks.

> > > > Jerry M. Landay

> > > > Assoc. Prof. Emeritus, Journalism

> > > > University of Illinois

> > > > 401-254-2291

> > > > THE APPARAT: BUSH'S BACK-DOOR POLITICAL MACHINE

> > > >

> > > > By Jerry M. Landay

> > > >

> > > > For Davina Baum, Alternet

> > > >

> > > > 4-1-04

> > > >

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> > > > This article is adapted from the longer essay at  
> > > > www.mediatransparency.org, which covers the organized radical right.

> > > >

> > > > TEASER: As America's mainstream media focuses on President Bush's  
> > campaign

> > > > war chest, it's missing the story of some 350 powerful right-wing  
> > > political

> > > > organizations -- operating outside of campaign funding constraints -  
> > that

> > > > are marching in lock-step to support the Republican Party.

> > > > Editor's Note: This article is adapted from the longer essay at  
> > > > <http://www.mediatransparency.org> Mediatransparency.org, which

covers

> > the

> > > > organized radical right. On a Tuesday evening in mid-January, a  
> > right-wing

> > > > Washington writer-for-hire named Clark Judge appeared on public  
> > radio's

> > > > Marketplace.

> > > > In a commentary heard by an estimated five million people, Judge

> > > > complained

> > > > that the philanthropist George Soros was engaged in an "unethical"  
> > effort  
> > > to  
> > > > outwit legal restrictions on campaign contributions.  
> > > > Judge huffed that Soros, along with the Democratic Party, was  
"ponying  
> > > up"  
> > > > millions of dollars in funding to tax-exempt, liberal advocacy  
> > > organizations  
> > > > to prevent the re-election of George W. Bush. He labeled Soros and  
the  
> > > > Democrats "prime abusers," for using barely legal tactics to evade  
> > > > the contribution ceilings of the McCain-Feingold campaign reform  
> > > law. Judge  
> > > > was correct when he implied that legal and IRS regulations that are  
> > > > supposed  
> > > > to curb political activities by tax-exempt non-profit organizations  
> > > are  
> > > > riddled with loopholes. Judge went much farther, though, implying  
that  
> > > > Soros  
> > > > and the Democrats had cornered the market on cheating. He warned his  
> > > > listeners to "brace...for the biggest tidal wave of political sewage  
> > > in  
> > > > American history" from these Soros-supported organizations. In  
> > > > political  
> > > > parlance, Judge was acting as a surrogate. He had no apparent  
> > > > connection  
> > > > with the Bush campaign. But he had struck a blow for Bush's  
> > > > re-election  
> > > on  
> > > > behalf of the political propaganda machine of the organized right.  
To  
> > > the  
> > > > uninitiated, Judge's credentials seemed to lend throw-weight to his  
> > > > attack:  
> > > > managing director of the White House Writers Group, an umbrella firm  
> > > > of  
> > > > former ghostwriters for Republican presidents and bureaucrats now at  
> > > > the  
> > > > service of anyone willing to pay. But only those in the know would  
> > > > understand the flaws in Judge's statements. He failed to mention  
that  
> > > > hundreds of tax-exempt organizations of the far  
> > > > right have been exploiting the twilight zone of campaign and IRS  
> > > > regulations  
> > > > for three decades -- receiving billions of dollars in grants and  
> > > > contributions to wage ideo-political warfare for far-right ideas,  
> > > > causes,  
> > > > and Republican candidates. Liberal political organizations resort to  
> > > > the  
> > > > same shortcuts, but they pale when compared to the scale and  
duration  
> > > > of  
> > > > right-wing mischief. Judge is one more cog in a vast machine that,  
in  
> > > > the  
> > > > judgment of the <a href="http://www.ncrp.org">National Committee for  
> > > > Responsive Philanthropy</a> (NCRP) has "played a critical role in  
> > > > helping  
> > > > the Republican Party to dominate state, local and national

politics."  
> It  
> > > is  
> > > > now operating at full throttle to keep Bush in office.  
> > > >  
> > > > Though its activists like to call themselves conservatives, there is  
> > > > nothing  
> > > > they wish to "conserve" beyond their power, status, and wealth. They  
> are  
> > > > right-wing radicals who have stolen the GOP away from the true  
> > > conservatives  
> > > > who once dominated it. This constellation of ideology is  
> > > > counter-revolutionary and anti-Constitutional. Its strategic endgame  
> is  
> > a  
> > > > one-party state. It dominates the three branches of the federal  
> > > government,  
> > > > and undermines Constitutional safeguards against rampant power. In  
> terms  
> > > of  
> > > > the state power it wields, the activist apparatus of the American  
far  
> > > right  
> > > > has a modern historic parallel to its left, the Apparat,  
> > > > the vast web of bureaucracy and radical politics that ran the old  
> Soviet  
> > > > Union. It stood on triangular legs: the dominant Communist Party,  
the  
> > > organs  
> > > > of state security, and the military. The organizations that  
constitute  
> > the  
> > > > American model lay down the broad, strategic aims of the  
governmental  
> > > wing,  
> > > > the Bush Administration. The third branch, the Republican Party, is  
> > > limited  
> > > > to serving as a money funnel of campaign cash and election machine  
on  
> > > behalf  
> > > > of candidates with the American Apparat's good housekeeping seal of  
> > > > ideological purity.  
> > > > In a new study called "The Axis of Ideology," the NCRP tracks  
the  
> > > > funding of the right-wing machine, noting that "it has played a  
> critical  
> > > > role in helping ... dominate state, local, and national politics."  
In  
> > > > formation since the early 1970s, the Apparat's activist groups labor  
> > from  
> > > > the same page to roll back the gains of center-to-left politics. Its  
> > power  
> > > > has tilted American governance, economics, education, social policy,  
> the  
> > > > media, and the law rightward. NCRP finds that between 1999 and 2001  
> > alone,  
> > > > \$253 million flowed to the Apparat's 350 organizations from 79  
private  
> > > > grant-making organizations. The Heritage Foundation, the senior  
cadre  
> of

> > > the  
> > > > Apparat, was lead recipient, at \$25,500,000. Heritage drew up the  
main  
> > > > agenda of the Bush Administration and serves as its employment and  
> > > personnel  
> > > > vetting arm. The NCRP report concludes that the right-wing  
> > establishment,  
> > > > fertilized by multiple millions, has "undoubtedly helped to advance,  
> > > market,  
> > > > and strengthen the conservative agenda in all policy realms," from  
> civil  
> > > > rights to international relations. The apparatus leads the assault  
> > against  
> > > > affirmative action and abortion. Its policy and lobbying operations  
> > drive  
> > > > the privatization of Medicare and Social Security. Two think  
tanks --  
> > the  
> > > > American Enterprise Institute and the Project for the New American  
> > > > Century -- housed leading planners of the Iraq War prior to Bush's  
> > > > inauguration. They include Lewis I. "Scooter" Libby, now  
> Vice-President  
> > > > Cheney's chief of staff, Richard N. Perle, former chairman of the  
> > > Pentagon's  
> > > > Defense Policy Board, and Paul Wolfowitz, now deputy secretary of  
> > defense.  
> > > > Major media ignore the unitary existence of this hydra-headed  
> > force.  
> > > > Thus, it operates invisibly -- in the open. Individually, its  
> "fellows"  
> > > and  
> > > > "experts" deluge op-ed pages, interview programs and talk shows, and  
> > > produce  
> > > > an unending stream of books and magazine articles. Rob Stein, a  
> > Washington  
> > > > researcher who lectures on the activities of the far right estimates  
> > that  
> > > > since 1972, a total of \$2.5 billion to \$3 billion has flowed to its  
> > > leading  
> > > > 43 affiliates. He terms these "the cohort, an incubator of  
right-wing  
> > > > ideological policies that constitute the Bush administration's  
> agenda."  
> > > The  
> > > > cohort, he says, is "a potent, never-ending source of intellectual  
> > > content,  
> > > > laying down the slogans, myths, and buzz words" -- such as the myth  
of  
> > the  
> > > > liberal media -- "that have helped shift public opinion rightward."  
> > > > Representatives of affiliated far-right organizations hold  
> > > planning  
> > > > meetings each Wednesday in Washington under ad hoc director Grover  
> > > Norquist,  
> > > > founder of Americans for Tax Reform, to hone strategy, coordinate  
> > > agitprop,  
> > > > and refine talking points. The main organs of the Apparat are well  
> known  
> > > as  
> > > > stand-alone operations. But  
> > > > the public is unaware of the powerful combine of which they're a

part.

> > > They  
> > > > include the multiple-issue think tanks mentioned above, the  
Manhattan  
> > > > Institute, the Hudson Institute, the Hoover Institution, the Reason  
> > > > Foundation, Citizens for a Sound Economy (lobbying for Bush's tax  
cuts  
> > for  
> > > > the wealthy), the Cato Institute (leading the charge for  
privatization  
> > of  
> > > > Social Security), the Lexington Institute (larger defense budgets),  
> the  
> > > > Federalist Society (propounding legal theory for right-wing  
> litigators),  
> > > the  
> > > > American Legislative Exchange Council (influencing state policies),  
> the  
> > > > Young America's Foundation (student recruiting and training on  
> > campuses),  
> > > > and the National Association of Scholars, (assaulting  
> affirmative-action  
> > > > programs in higher education).  
> > > >  
> > > > The Apparat's ideological platform includes "less government" (a  
> > > euphemism  
> > > > for corporate socialism), lower taxes for the wealthy, restrictions  
on  
> > the  
> > > > public right to sue, and "pure" free marketry unfettered by  
> regulations  
> > or  
> > > > public-interest concerns. Bush campaigns to empower the ideological  
> > agenda  
> > > > of the apparatus, and, in turn, as his base, it campaigns for Bush.  
> In  
> > > the  
> > > > early 1970s, when the movement was spawned, seed funding came from a  
> > > > relative handful of private foundations established by far-right  
> > > > industrialists and inherited wealth. They included the Bradley  
> > Foundation  
> > > of  
> > > > Milwaukee, the Olin Foundation of New York, the quartet of  
foundations  
> > > > controlled by Richard Mellon Scaife of Pittsburgh, the Smith  
> Richardson  
> > > > Foundation (Vicks), the Castle Rock Foundation (Coors beer), and the  
> > Koch  
> > > > family foundations (energy). The movement was energized in the '70s  
by  
> a  
> > > > future Supreme Court justice, Lewis Powell, and mobilized by former  
> > > Treasury  
> > > > Secretary and energy czar, William Simon. In 1973, as ferment raged  
> over  
> > > > consumer rights, Vietnam, racial injustice, and Watergate, Powell, a  
> > > > Richmond attorney, wrote a memo that the U.S. Chamber of Commerce  
> > > > distributed widely, calling for an  
> > > > organized assault against what Powell saw as the ramparts of the  
> > "Liberal  
> > > > Establishment" -- politics, media, courts and campus. He exhorted

big  
> > > > business to become active politically. His memo became the  
> > organizational  
> > > > blueprint for the movement. In the late '70s, Simon wrote two highly  
> > > > influential books calling for business leaders, intellectuals, and  
> > > students  
> > > > to create a "counter-intelligentsia" to roll back the "despotism" of  
> > > > liberalism. The response to their efforts, spurred by the election  
of  
> > > Ronald  
> > > > Reagan,  
> > > > evolved into what Sidney Blumenthal calls the  
"counter-establishment."  
> > > Since  
> > > > the 1980s, its base of hard cash has grown even larger under the  
> > > > philanthropic ministrations of private foundations, corporations,  
and  
> > > > individuals.  
> > > >  
> > > > As they belatedly begin to organize an activist front to  
offset  
> > the  
> > > > Apparat, some liberal leaders wonder if it's too late.  
> > > >  
> > > > =====  
> > > >  
> > > > Jerry M. Landay, a former journalist for ABC and CBS, is  
professor  
> > > > emeritus in Journalism at the University of Illinois. He writes on  
> > current  
> > > > issues.  
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