

May 23, 2003

Mai Dinh, Esquire
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Federal Election Commission
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Via Electronic mail

Re: Comments on Proposed Regulation of
Political Party National Conventions

Ms. Dinh:

By and through the undersigned counsel, Thomas M. Reynolds hereby submits these comments on the Commission's proposed rulemaking regarding political party national conventions. Mr. Reynolds was first elected to Congress in 1998, and represents the Twenty-Sixth District of New York. He is the Chairman of the National Republican Congressional Committee. The Republican Party's national convention is scheduled to occur in the late summer of 2004, and is to be held in Mr. Reynolds' home state of New York. Mr. Reynolds wishes to participate in that convention, and assist in all permissible ways to ensure its success. With respect to the proposed rulemaking, we ask to testify at any public hearing concerning the matter.

I. OVERVIEW

The Commission is very familiar with the political party national conventions. They are enormous undertakings that involve substantial funding, both public and private. As the Commission is aware, they are various entities involved in the convention, including the political party's convention committee, the host city's not-for-profit host committee and various municipal funds.

The party committee's convention committees receive public funding, and are subject to reporting and disclosure obligations, limits on the total amount of convention-related expenditures, and the prohibition on corporate and unions donations. Such committees generally pay costs that are political in nature, such as the expenses in connection with the nomination of the party's presidential candidate. Separate and distinct from the convention committee is the host committee. The non-profit host committee is established by the host city, and its "objective is to encourage commerce in the convention city and project a favorable image of the city to convention attendees." 11 C.F.R. § 9008.52(a). Because the host committee is a separate non-profit, and is a commercial enterprise, it is permitted to accept corporate and labor union donations without limit. Current rules permit host committees to accept donations from local businesses.

II. DISCUSSION

A. Fundraising by Federal Officials and Candidates for Host Committees and Municipal Funds.

The Commission seeks comment on whether BCRA's solicitation prohibitions applicable to federal officeholders and candidates apply to the funds raised by the host committees and municipal funds. The short answer is they do not.

First, BCRA is clear on its face that federal officeholders and candidates are permitted to raise funds for 501(c) tax exempt organizations. This is an explicit exception to the ban on so-called "soft money" solicitations. 2 U.S.C. § 441i(e)(4)(A). As the Commission is aware, host committees are established as 501(c) tax exempt organizations. As the Commission is also aware, host committees do not engage in the federal election activity contemplated by the language of BCRA, such as voter registration, voter identification, get-out-the-vote activities or generic campaign activities. Thus, under the clear language of BCRA, federal officeholders and candidates may solicit funds without limitation to not-for-profit host committees. In other words, money solicited for or raised by the host committee does not constitute "soft money" prohibited by BCRA.

Second, there is nothing in the history of BCRA to suggest a different result. Congress was well aware of how national conventions are run. Specifically, Congress was well aware of the role of host committees, including their sources of funding. Yet, BCRA explicitly allows federal officeholders and candidates to raise money for such non-profit entities. Whether one dissects the handful of floor statements and debates, reads the contemporaneous editorial pages and op-ed articles, or reviews the numerous contemporaneous public statements by the sponsors of the legislation, one is hard-pressed to find support for the proposed rule.

Moreover, the actions of supporters of BCRA also make the point. Senator Ted Kennedy of Massachusetts was a vocal supporter of BCRA, and voted in favor of it. He has also been very public about his efforts to ensure a successful Democratic

convention to be held next year in Boston. Specifically, it is clear that Senator Kennedy certainly appears to be operating under the belief that BCRA does not prohibit, but in fact allows, him to solicit and direct corporate and union funds for Boston's host committee. Again, these sorts of funds do not constitute prohibited "soft money."

In light of BCRA's clear language and in the absence of any intent to the contrary, the Commission's proposed rule on this point cannot be sustained.

B. Corporate-Sponsored Receptions and Events.

Equally infirm is the notion that corporate-sponsored events that occur during the time of the conventions are somehow problematic. Again, any effort by the Commission to justify such regulation as being sanctioned by BCRA would be futile. Moreover, Federal officeholder involvement in such events are already regulated by House and Senate ethics rules. In addition to its usual rules regarding widely-attended events and the like, the committees routinely issue memos providing guidance on accepted and prohibited activities while attending a national convention.

C. Limitations on "local" businesses, individuals, corporations and organizations.

The Commission seeks comment on the elimination of the requirement that only "local" organizations make donations to host committees and municipal funds. This change ought to occur. Although there may have once been a time where there was a distinction between "local" businesses and more regional or national entities, such a distinction no longer exists. "Local" no longer has a clear meaning. One need look no further than the vast rise in sales on the internet to see that "local" distinctions continue to disappear. The same is true of other communication media, such as cable and related advertising. The ease of modern travel has also contributed to the elimination the concept of "local" business.

Further, the "local" requirement prevents other entities and cities within the host city's state from participating fully. Both New York and Boston are excellent examples of this. Both have cities other than New York and Boston which, if given the opportunity, could use the convention as a showcase. Under current rules, this cannot occur. Moreover, the "local" rule ought to be lifted so as to encourage other cities to vie for hosting a national convention. Given the high cost of conventions, many cities simply cannot compete with the support that can be offered by a handful of other cities. Deleting the "local" requirement could in time allow conventions to be held in locations which otherwise have been "priced-out" of hosting national conventions.

Respectfully submitted,

Donald F. McGahn II