

March 4, 2013

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

Dear Ms. Werth:

I am submitting these comments in response to the Draft Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements (hereafter "The Draft").

The Commission should not attempt by clarification or interpretation to turn a *recordkeeping* requirement regulation for political committees (11 CFR 102.9(b)(2), (b)(2)(i)(A)) into a *reporting* requirement regulation (located in a different section of the regulations at 11 CFR 104.3(b)(3)(i) for unauthorized committees and 11 CFR 104.3(b)(4)(i) for authorized committees), and also 11 CFR 104.9(a),(b). If the Commission desires to require additional reporting obligations for disbursements made by political committees, then the Commission should change the regulations regarding such reporting requirements, and should acknowledge that the existing regulations do not currently impose these burdens.

Nothing provides greater evidence for this argument than the Commission's often-changing interpretation of the current regulations referenced above. Footnote 2 on page 4 of the Draft indicates that for almost three decades prior to the 1999-2000 election cycle, the Commission did not believe that the existing reporting regulations required ultimate vendor reporting for reimbursements to individuals made by political committees. During that 1999-2000 cycle, without the support from any changes in the regulations themselves, the Footnote indicates that the staff of the Reports Analysis Division began "...sending Requests for Additional Information to authorized committees that did not itemize the ultimate payee for reimbursements to staff above the applicable thresholds...."

However, the Reports Analysis Division staff did not appear to believe at that time that party and non-party committees were impacted by this new burden, because the Footnote reflects that such Requests for Additional Information were not sent to these (party and non-party) committees until six years later during the 2005-2006 cycle. And yet, once again, there were no changes during those six years to the regulations addressing reporting requirements for disbursements, but rather an apparently evolving interpretation of these requirements by the different sections within the Commission's Reports Analysis Division.

In fact, beginning with the Commission's Statement of Policy of January 9, 2007, (a date *after* the timeframe during which Requests for Additional Information regarding ultimate vendors began to be sent), the Commission has provided to the public and regulated community a list of expenditure purposes of disbursement categorized by the Commission as "adequate". "Travel" was on this list as an "adequate" description (and remains so on the most recently updated list from May of 2012). If indeed "travel" constitutes an "adequate" reporting of an expenditure, then there is no justification for

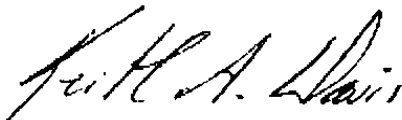
continuing to send the types of Requests for Additional Information from the Reports Analysis Division as referenced by the Footnote.

In a similar manner, Footnote 3 on page 5 of the Draft indicates the staff of the Reports Analysis Division *recently* (emphasis added) sent a Request for Additional Information regarding ultimate vendor reporting for expenses paid by a candidate. This would seem to be another evolution in the Commission staff's interpretation of the regulations regarding reporting requirements, because those regulations have not changed during the several decades in which the staff of the Reports Analysis Division apparently did not believe that any such additional reporting was required, and during which no such letters were sent.

It would be difficult to express adequately the frustration felt by the regulated community when reporting requirements seem to change *for no reason*, without any previous notification, and certainly without accompanying changes in the regulations themselves.

No attempt to "clarify" the current reporting regulations can make them say what they simply do not now say. The regulated community would have no way of knowing how long it would be before the Commission staff reinterpreted even this newly-proposed clarification. Once again, if the Commission feels the current reporting regulations need to be changed, then changing the regulations is the procedure that should be followed.

Respectfully submitted:

A handwritten signature in black ink that reads "Keith A. Davis". The signature is written in a cursive style with a large initial 'K' and 'D'.

Keith A. Davis
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