




FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

MEMORANDUM

TO: The Commission
Acting Staff Director
Acting General Counsel
Press Office
Public Disclosure

FROM: Commission Secretary and Clerk 

DATE: June 29, 2011

SUBJECT: *Ex Parte* Communication Regarding
Draft Advisory Opinion 2011-11 (Colbert)

Transmitted herewith is an *ex parte* communication from
Commissioner Steven T. Walther regarding the above matter.

Attachment



"r_e_rutkowski"
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06/29/2011 02:00 PM

To <CommissionerWalther@fec.gov>
cc
bcc
Subject Stephen Colbert's Super PAC Shouldn't Get Overly Broad Media Exemption/Comedian's Request Would Gut Already Weakened Campaign Finance Rules

Steven T. Walther
Chairman
Federal Election Commission
999 E Street, NW
Washington, DC 20463
(800) 424-9530
E-mail: CommissionerWalther@fec.gov

Re: Stephen Colbert's Super PAC Shouldn't Get Overly Broad Media Exemption/Comedian's Request Would Gut Already Weakened Campaign Finance Rules

Dear Chairman Walther:

The Federal Election Commission (FEC) should deny comedian Stephen Colbert's request for an overly broad "press exemption" to campaign finance laws for his Super PAC.

Colbert plans to visit the FEC on Thursday to request that the agency expand the media's exemption by allowing Viacom Corp. – the parent company for his Comedy Central show, The Colbert Report – to secretly finance the election activities of the Colbert Super PAC.

Although Colbert's request is largely in jest, if the FEC played along and granted it, federal campaign finance laws and regulations would be gutted.

This would carve out a gaping loophole in campaign finance laws, allowing any company involved in media to foot, in secret and without limit, the electioneering expenses of political committees. If the press exemption were to be so dangerously expanded by the FEC, the next request will be for media companies to directly finance unlimited candidate campaigns under the press exemption – an abuse that is already being advocated in some quarters.

It has become commonplace for many candidates today to double as show hosts and commentators, such as Sarah Palin, Newt Gingrich and Mike Huckabee. Loosening the press exemption as requested by Colbert is likely to have the unintended consequence of permitting media companies to fund these candidate campaigns as well as 'independent' Super PACs.

Super PACs, officially known as "independent expenditure-only committees," are free of most limits on campaign spending. The media exemption would allow Viacom to finance the election activities of the Colbert Super PAC beyond the traditionally accepted boundaries of political news reporting, editorials and endorsements within its legitimate role as news media. Colbert is requesting that Viacom be given carte blanche to fund any number of his PAC's political activities, such as to pay for TV ads and billboards supporting and opposing candidates, which are entirely unrelated to Viacom's business as a news source.

In essence, Colbert wants the FEC to establish that any and all corporate expenditures by Viacom in support of his Super PAC may go unreported to the public under the press exemption – whether or not the activities of the PAC are related to the media function of Viacom.

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The press exemption has long been a staple of campaign finance laws. It is critical for the freedom of the press to allow media outlets to pay for any costs associated with 'covering or carrying any news story, commentary or editorial.' Such media expenses are exempt from reporting requirements. As always, however, this press exemption means allowing media companies to pay for expenses in the course of its 'legitimate press function,' not a blanket exemption allowing such companies to finance political campaigns generally.

In the wake of the U.S. Supreme Court's decision last year in Citizens United v. Federal Election Commission, which opened decades of campaign finance laws and gave corporations untold allowances in federal campaign spending, the last thing the nation needs is for campaign finance laws to be further weakened.

Thank you for the opportunity to bring these remarks to your attention.

Yours sincerely,
Robert E. Rutkowski

cc: House Minority Leadership

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Re: Public Citizen letter: <http://www.citizen.org/documents/Colbert-Letter-FEC-20110629.pdf>