FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: The Commission

FROM: Commission Secretary's Office

DATE: April 18, 2014

SUBJECT: Comments on Draft AO 2014-02
(Make Your Laws PAC, Inc.)

Attached is a timely submitted comment received from Louis Joyce. This matter is on the April 23, 2014 Open Meeting Agenda.

Attachment

AO 2014-02 (Make Your Laws PAC)
Louis Joyce
to:
AO
04/17/2014 10:51 PM
Hide Details
From: Louis Joyce < @. >
To: AO@fec.gov,

This comment was written solely by me, Louis Joyce, and it does not represent the views of any organization or campaign committee.

The Commission has issued two separate drafts regarding the collection of Bitcoin contributions by political committees. I believe that the Commission has an insufficient understanding of the underlying Bitcoin technology, and both drafts would leave a massive, irreparable hole in FEC regulations. I urge the Commission to entirely ban the receipt of Bitcoin contributions by any political committee.

There are several main problems with the Commission's proposal. Draft B correctly notes that Bitcoin functions in a similar manner to cash and suggests that the largest permissible contribution should therefore be $100 in accordance with the maximum cash donation allowed under FEC regulations. It further suggests that Bitcoin donors fill out a form with identifying information to ensure their donations are legal.

This approach is problematic. All Bitcoin donations are inherently anonymous. Even if the donor fills out a form with identifying information, it is impossible to show that the donor is indeed the actual owner of any particular number of Bitcoins. To send a Bitcoin, the user only needs a "private key" that is associated with a unique address. This "key" is simply a long string of numbers - anyone with these numbers can spend Bitcoins regardless of where or who they are. It is not possible to know the identity of the legal owner of an address - only if a person has the necessary key to send Bitcoins. While the key may be legitimately shared, it may also be stolen and unrecoverable by its owner. There is also the mathematically unlikely possibility that a Bitcoin address, randomly generated by a user, happens to be one already in use by another user ("collision").

This all leads to a number of problems unaddressed by the Commission. What would happen if a person who is prohibited from contributing to a campaign, such as a federal contractor or foreign national, shared access to a Bitcoin address with an eligible individual that chose to donate to a campaign committee? In the case of donations made in US dollars, FEC regulations currently allow donations to be attributed to an eligible donor with access to the funds. It may seem elegant, then, to simply treat a Bitcoin address as a bank account. However, KYC-compliant bank accounts differ from Bitcoin addresses in that they require full legal names be attached to account. Because it is impossible to find the true owner of a Bitcoin address, or even a list of persons with access to the account, there is no particular way to determine the owner of any of the funds or the person that authorized the donation. Even a full police investigation would be unlikely to trace the origin of any particular funds. This means that a single pool of funds can be used, untraceably, to make unlimited donations to any particular Committee.

The worst case scenario is that a transaction need not even involve a US citizen. It would be trivial for even a novice programmer to create a computer algorithm that culls names, addresses, and employers from public record and use those to automatically submit a large number of fraudulent Bitcoin donations. Properly performed, it would be completely impossible to distinguish between legitimate and illegitimate donations.

There is one last issue. Election law states that an illegal donation must be refunded. In the case if

Bitcoin, this is not necessarily possible. It is not possible to tell if a donor has access to wallet, even if a Bitcoin output corresponding to a donation came from it. There are multiple services, such as Coinbase, that allow transactions to occur from a wallet controlled by someone else. An attempt to send a Bitcoin donation back to its address would not necessarily result in a refund, and thus it may be in many cases impossible for a committee to fulfill its legal obligation.

Given the total inability to identify the true donor of any funds, all Bitcoin transactions that take place over the Internet should at minimum be regarded as anonymous cash donations, even if accompanied by identifying information, and capped at $50. In my view, though, this does not go far enough - especially given that any such cap can easily be avoided by simply giving small sums of money from many different addresses. Bitcoin Fog, an anonymous money laundering website accessible only through the "deep web" network known as Tor, will perform that function automatically.

FEC regulations require that a political committee make a best effort to identify the name, mailing address, occupation, and employer of any donor contributing more than $200. Bitcoin, as written in the original Satoshi Nakamoto white paper describing the protocol, was designed for anonymity. Any committee that accepts Bitcoin is inherently failing to make such an effort. Those wishing to make a contribution using their Bitcoins have relief: they can simply sell their Bitcoins and donate using their bank account.

Again, I urge the Commission to reject the solicitation of Bitcoins by political committees. Confidence in political process requires fair and transparent rules. These proposals would be a disaster for the Democratic process and raise far more serious questions than answered.

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Louis Joyce