

**QUESTIONS FOR RULES COMMITTEE HEARING ON  
JUNE 13, 2007**

**Response of Hans A. von Spakovsky**

**Mr. von Spakovsky, Mr. Mason, Mr. Lenhard, and Mr. Walther:**

**1) As members of the Federal Election Commission, you have all testified to the wonderful working environment that exists. Given the record number of fines through settlement, improved management of increased filings, increased efficiency in the enforcement process, to name a few, I would like to learn of your thoughts on the current campaign finance laws and procedures that are in place. Where do you believe the problems are in current law that may be addressed by Congress, by clarifying the law or closing loopholes, in order to increase transparency and make accountability easier to monitor?**

- In response to this question, I would refer the Senate to the Commission's 2007 Legislative Recommendations. In April 2007, the Commission made 5 recommendations to Congress and the President:
  - (1) Require mandatory electronic filing of Senate reports;
  - (2) Revise the prohibitions on fraudulent misrepresentation of campaign authority to encompass all persons purporting to act on behalf of candidates and real or fictitious political committees and political organizations;
  - (3) Revise 18 U.S.C. § 6001(1) to add the Commission to the list of agencies authorized to issue immunity orders with the concurrence of the Attorney General according to the provisions of Title 18;
  - (4) Require political committees to include their FEC identification number on all committee-to-committee contribution checks issued by them and to disclose the FEC identification number of other political committees when itemizing contributions received from those committees on schedule A and contributions disbursed on schedule B of FEC Form 3, Form 3X, or 3P; and
  - (5) Increase certain pre-BCRA registration and reporting thresholds that have not been changed since the 1970s.
- The Commission's Legislative Recommendations are available at [http://www.fec.gov/law/legislative\\_recommendations\\_2007.shtml](http://www.fec.gov/law/legislative_recommendations_2007.shtml).

**2) The 2008 Presidential election season started off early. In addition, the fundraising that is necessary for candidates in federal elections is at an all-time high. It seems as though the "down time" for candidates in between**

**election cycles has shortened dramatically. Do you believe this is straining the ability of the FEC to keep track of campaign finances due to an increased volume?**

- In my opinion, the Commission's resources are not strained by the amounts of money that candidates are raising for the 2008 Presidential election and for other Federal elections. This is a function of mandatory electronic filing. The Presidential candidates all file electronically, as do House of Representatives incumbents and challengers. Electronic filing enables the Commission to make fundraising reports public virtually the moment the candidate files his report, no matter how much (or how little) money has been raised by the candidate.
- Senate filings, however, cannot be made public until they are re-formatted into electronic form, which requires considerable time and resources.

**3) Finally, I would like to hear your thoughts regarding the issue of "527s", and the impact on the FEC's ability accurately track campaign finances. What, if anything, do you believe might assist your agency in its efforts to keep the American electorate informed about candidates' campaign finances?**

- I believe the Commission would be greatly assisted in its mission by a clear statement from Congress regarding exactly how it should enforce the "political committee" requirements of the Federal Election Campaign Act with respect to 527 organizations.
- In recent years, several "527 bills" have been introduced in Congress. ( I express no views on any particular piece of legislation.) As you also know, in the absence of Congressional action, the Commission has adopted an approach to enforcement in which it evaluates the conduct of 527 organizations under the existing "contribution" and "expenditure" rules, and then determines if the organization's major purpose is to influence a Federal election. The Commission has determined that this approach is required by the Act, Commission regulations, and Supreme Court precedent. This approach is reflected in a series of Conciliation Agreements the Commission has reached with 527 organizations that were active in the 2004 election.
- Elements of the regulated community, however, have expressed concern with the Commission's approach.
- If Congress were to either codify the Commission's approach, or statutorily establish a different approach, both the Commission and the public would have clear guidance as to what is required. This would, in turn, prompt the voluntary compliance among "covered" organizations that is essential to the proper functioning of our campaign finance regime.

