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August 18, 2004

AGENDA ITEM

For Meeting of: 8-19-04

SUBMITTED LATE

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon *JAP*
Staff Director

FROM: Lawrence H. Norton *LHN*
General Counsel

Rosemary C. Smith *RCS*
Associate General Counsel

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Subject: Draft AO 2004-25 – Amendments to August 5 Blue Draft

On August 5, 2004, the Office of General Counsel submitted a Blue Draft of Advisory Opinion 2004-25 (Agenda Document No. 04-70). On August 19, this Office submitted an Alternative Blue Draft (Agenda Document No. 04-70-A) reaching a different conclusion. Although the Alternative Blue Draft reaches a different conclusion from the August 5 Blue Draft, some language in the Alternative Draft that is applicable to both drafts is better stated in the Alternative Draft. Hence, this Office is submitting the following amendments to the August 5 Blue Draft:

- (1) Page 2, line 4 – Insert the word “activity” after the word “registration.”
- (2) Page 2, line 8 –After the word “activity,” insert “, as defined in 11 CFR 100.24(a)(2).”

- (3) Page 2 – Delete line 10 to line 14 through the word “300.50.” Replace with

The Act, as amended by the Bipartisan Campaign Reform Act of 2002 (“BCRA”), and the Commission’s rules bars national party committees (including national congressional committees of a political party, such as the DSCC) from raising or spending any non-Federal funds, which are funds not subject to the limitations, prohibitions, and reporting requirements of the Act. *See* 2 U.S.C. 441i(a); 11 CFR 300.2(k) and 300.10. BCRA also restricts national party committees in the raising and spending of funds for 501(c) organizations that make expenditures and disbursements in connection with an election for Federal office, and for 527 organizations. *See* 2 U.S.C. 441i(d); 11 CFR 300.11 and 300.50.

- (4) Page 2, line 14 – At the word, “Although,” begin a new paragraph.
- (5) Page 3, line 9 – Delete the word “activities.” Add the phrase, “activity, as defined in 11 CFR 100.24(a)(2).”
- (6) Page 3, line 20 - After the word “registration,” insert the word “activity.”
- (7) Page 6, line 9 – After the word “activity,” add the phrase “as defined in 11 CFR 100.24(a)(2).”

We request that this memorandum be placed on the agenda for August 19, 2004.