FEDERAL ELECTION COMMISSION
Washington, DC 20463

Statement of Commissioner Hans A. von Spakovsky

On the Adoption of New Travel Regulations

December 14, 2007

When Congress adopted S.1, the Honest Leadership and Open Government Act of 2007, it included a relatively brief section entitled "Restrictions on Use of Campaign Funds for Flights on Noncommercial Aircraft." While legislative brevity is not to be confused with simplicity, it is dismaying to see such a brief piece of legislation balloon into a lengthy and complex set of implementing regulations. The law, however, is complex, and the Final Rules before us today are a generally well-considered product. Unfortunately, I am unable to cast my vote in favor of these rules because I believe they contain one fundamental and very important error.

The "corporate jet" provision of S.1 was enacted for a very specific purpose: to combat the perceived problem of Members of Congress flying on privately-owned jets while paying less than the full charter rate in return. As two leading sponsors of S.1 explained to us in written comments, "[i]n recent years, travel by Members of Congress on corporate jets contributed greatly to public concern about inappropriate access and influence of lobbyists on the legislative process." The Commission was informed by other interested parties that "Congress' intent in enacting the new travel restrictions was to end the long-time practice of candidates being subsidized for travel on non-commercial flights through the unsurprising generosity of corporations, wealthy individuals and others."

The proposed regulations before us today faithfully implement S.1 in a manner consistent with the sponsors' understanding of its effect on federal candidates. But the regulations go further and do something that Congress very clearly did not intend. The regulations before us impose the new air travel regime of S.1 not only on federal candidates, but on everyone else too, including political parties and non-candidate political committees. The scope of S.1 could not be clearer. It applies only to "candidates for election" and "any authorized committee of such a candidate." Had Congress wished to apply the new travel rules more broadly, it would have done so.

Notwithstanding this absolutely clear statutory language, however, the Commission included a proposal in its Notice of Proposed Rulemaking to extend the new rules to all federal political actors. Not a single commenter embraced that proposal. Nevertheless, the Commission is poised is adopt a regulation that everyone in the regulated community who cared enough to comment said we should not adopt. Just four years ago, the Commission approved travel rules based on the "first class airfare" concept. Congress made quite clear its rejection of that concept for federal candidates and officeholders. But it did not do so for any other political organizations. There is absolutely nothing in the public record before us that supports disregarding the plain

language of the statute to apply the new travel rules more expansively than Congress wanted, and I consider this extension to raise serious questions regarding this Commission's obligation as an administrative agency to engage in reasoned decision making. We have received no public testimony and made no findings of any kind that would support changing our existing regulation for political parties and non-candidate political committees, and I cannot vote to make such a change on that basis.