



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: The Commission
FROM: Commission Secretary's Office *see*
DATE: April 25, 2013
SUBJECT: Comments on Draft AO 2013-02
(Dan Winslow)

**Attached is a late submitted comment from Scott E. Knox.
This matter is on the April 25, 2013 Open Meeting Agenda.**

Attachment

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VIA EMAIL

April 25, 2013

Federal Elections Commission
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Fax number 202-208-3333 (commission secretary)
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Re: Comments on Draft Advisory Opinions A and B to AO 2013-02 (Dan Winslow)

Dear Commissioners:

Following are my comments on the draft opinions to be considered by the Commissioners this morning.

As the draft opinions note, DOMA's intended effort is precisely to deny the benefits of marriage to same-sex couples who have lawfully wed in states which recognize same-sex marriage. This results in a perverse form of reverse nullification, which was unacceptable in the past when practiced by states of the old Confederacy and it is equally unacceptable today. Unfortunately, the Commission is bound to abide by acts of Congress, even when so clearly outrageous.

Both drafts A and B make mention of the challenges to DOMA that are currently pending in the Supreme Court; and that the outcomes of those cases could render the advisory opinion moot – specifically if the Supreme Court rules DOMA unconstitutional. Understanding that potential, rather than adopt either draft opinion at this time, the deadline for the Commission to respond should be extended until early July of this year, by which time the Supreme Court's ruling will be released and the state of the law will be more clear.

Alternatively, the Commissioners should make clear that but for DOMA, same-sex married couples, lawfully wed in states recognizing same-sex marriage, could rely on 11 USC 101.1(i) to make joint contributions. This would provide direction going forward if, hopefully, the Supreme Court does strike down DOMA.

Sincerely,

s/
Scott E. Knox,
Commentor