

Comment on AOR 2013-10



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To <secretary@fec.gov>,
cc
bcc
Subject Comments on Advisory Opinion Request 2013-10 (DSCC, DCCC, NRCC, NRSC)

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OFFICE OF GENERAL
COUNSEL

Ellen L. Weintraub, Chair
Federal Election Commission
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Washington, DC 20463
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secretary@fec.gov

Re: Comments on Advisory Opinion Request 2013-10 (DSCC, DCCC, NRCC, NRSC)

Dear Chair,

Today, Democracy 21 joined the Campaign Legal Center in filing comments, <http://www.democracy21.org/wp-content/uploads/2013/08/CLC-D21-Comments-re-AOR-2013-10-DSCC-DCCC-NRCC-NRSC-8-2-13.pdf>, in response to an Advisory Opinion Request (AOR) 2013-10, in which both the Democratic and Republican parties seek to use their segregated "recount funds" to pay for office building expenses and in effect double their federal contribution limits.

The AOR submitted on behalf of the Democratic Senatorial Campaign Committee (DSCC), Democratic Congressional Campaign Committee (DCCC), the National Republican Congressional Committee (NRCC), and the National Republican Senatorial Committee (NRSC) seeks permission to build upon an existing regulatory loophole allowing parties to raise "recount funds" under separate contribution limits, to use such "recount funds" to pay for "office building expenses," which of course have nothing at all to do with recounts. In short, the parties seek permission to effectively double their contribution limits and convert "recount funds" into general purpose slush funds.

Even by the standards of shameless, self-serving positions which too often apply to political party interpretations of the campaign finance laws, this advisory opinion request is way over the top. The party committees are asking the Commission to allow them to use so-called recount funds to pay their building expenses, which obviously have nothing to do with recounts.

These recount funds shouldn't exist in the first place, because they are not authorized by the campaign finance statute and allow wealthy donors to evade their contribution limits and double the size of their contributions to the parties. As bad as these accounts are even when they are limited to use for recounts, it would be far worse for the Commission to allow them to be used for building expenses. At stake here is whether the Commission is going to allow the parties to set up general purpose slush funds which are not permitted by the campaign finance laws and with money raised outside the contribution limits. The answer to that should be an obvious and unequivocal no.

An old "office building" exemption from the statutory definition of "contribution" gave birth to the "soft money"

system in the late 1970s, which grew and grew with the FEC's support, until unlimited soft money accounted for more than 40% of the funds raised and spent by national parties in 2000. Congress dismantled the soft money system in 2002 by passing the Bipartisan Campaign Reform Act and, in doing so, explicitly repealed the "office facility" exemption. The parties are now asking the FEC to recreate the exemption, based on "recount fund" regulations and advisory opinions having nothing to do with office building expenses.

The comments strongly criticize the Commission's current recount regulations, which in defiance of logic take the position that recount activities are not "for the purpose of influencing" federal elections, even though they are "in connection with" elections.

The Commission should reject the parties' request in this AOR and initiate a rulemaking proceeding to reconsider the severely flawed recount regulations.

Thank you for the opportunity to bring these remarks to your attention.

Yours sincerely,
Robert E. Rutkowski

cc: House Minority Leadership

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