

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT




FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

2004 JAN -6 P 1:33

January 6, 2004

MEMORANDUM

TO: The Commission

FROM: Scott E. Thomas  
Commissioner 

SUBJECT: Draft Advisory Opinion 2003-36 (RGA)

**AGENDA ITEM**  
For Meeting of: 01-07-04

**SUBMITTED LATE**

I offer a few revisions for Draft B, the version I prefer.

1. On p. 2, line 23 add "in those filings" after "RGA". [We don't want to contradict fact stated elsewhere that the Conference Account apparently is segregated in some fashion.]
2. On p. 3, line 11, add "in solicitations by covered individuals" after "but". [For clarity.]
3. On p. 3, line 16, add "(other than the covered individual in the context of the solicitation)" after "candidates". [For clarity.]
4. On p. 4, line 3, add "(other than the covered individual in the context of the solicitation)" after "mentioned". [For clarity.]
5. On p. 5, lines 4 and 5 of footnote 6, delete "; Federal government contractors (2 U.S.C. 441c);". [Regulations at 115.2(a) make this provision inapplicable to nonfederal election activity.]
6. On p. 6, line 21, through p. 7, line 2, substitute: "I am asking for a donation of up to \$5,000 per year. I am not asking for funds from corporations, labor organizations, or other federally prohibited sources." [As in Flake opinion, we should allow a non-candidate/non-party committee to have covered individuals raise \$5,000 per year. Also, we should add a shorthand reference that would encompass the foreign national, government contractor, and national bank prohibitions that apply to federal contributions. See 2 U.S.C. 441i(e)(i)(B)(ii).]

7. On p. 9, lines 18 and 18, change “questions 1.a and 1.b” to “question 1.b”. [Question 1.c relates only to signing fundraising letters, not appearing at events.]

8. On p. 11, footnote 9, delete text beginning on fourth line with “In the absence . . .”. [We shouldn’t attempt to divine the IRS rules. It may well be that Conference Account expenses would be treated by the IRS as exempt function activity. Section 527(e)(2) treats as exempt function “expenditures relating to an office . . . .” We should not convey any suggestion that the RGA must treat such expenses taxable income on Form 1120-POL Line 7 if there is some doubt on the point.]