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2003 DEC -8 A 11: 14

December 5, 2003

Benjamin L. Ginsberg
(202) 457-6405
bginsberg@pattonboggs.com

COURIER

Supplement to

Ms. Rosemary C. Smith
Acting Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

AOR 2003-30

2003 DEC -5 P 3: 06

FEDERAL ELECTION
COMMISSION
OFFICE OF LEGAL
COUNSEL

Re: Draft AO 2003-30

Dear Ms. Smith:

This letter is in response to your letter received by facsimile transmission on November 21, 2003, requesting further detail regarding the facts of our request. You stated in your November 21st letter that we had amended our advisory opinion request, specifically that our request now seeks application of the Federal Election Campaign Act and Commission regulations to the Committee's proposed uses of contributions designated or attributed to "both the 1998 elections and the 2004 primary elections." Please excuse any miscommunication on our part that may have taken place, but we did not amend our request.¹

Given the Commission's previous guidance, the Fitzgerald for Senate Committee is clear on what it could do with its 1998 campaign contributions and did not seek the Commission's advice concerning such funds. Our request remains focused exclusively on contributions raised for the 2004 primary election. We simply communicated to your staff that a few of the numbers presented in the draft advisory opinion were inaccurate. We continue to believe these numbers are inconsequential to the Commission's analysis and, therefore, a technical correction, which should not have warranted a delay.

Your additional questions are below with our answers in bold:

¹ Perhaps your confusion arose from communications between us concerning our answer to question 1(a) in the Acting Associate General Counsel's July 18, 2003 letter, which you attempted to reflect on lines 14-17 of draft Advisory Opinion 2003-30. Somehow you interpreted our response as indicating that of the \$526,000 cash-on-hand, some portion thereof contained funds from the 1998 election. As we still read the question asked, we were simply providing the amount of cash-on-hand raised for the 2004 primary that came from contributors who also met the separate contribution limits for the 1998 elections.

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Phone: 202.462.1000
www.pattonboggs.com

- (1) Please confirm that the \$526,000 cash-on-hand that the Committee will use for the four purposes in your original request is made up of:
- a. \$334,000 in contributions from individuals for the 1998 election and 2004 primary election;
 - b. \$187,000 in contributions from political committees for the 1998 election and the 2004 primary election;
 - c. \$5,000 from interest.

No. The \$526,000 cash-on-hand is made up of \$334,000 in individual contributions given for the 2004 primary election, \$187,000 in political committee contributions given for the 2004 primary election and \$5,000 interest earned since the 1998 elections.

- (2) Please confirm that of the \$334,000 in contributions from individuals for the 1998 elections and the 2004 primary election, \$73,500 is from individuals who reached the contribution limit for the 1998 elections.

This question incorrectly assumes a "yes" response to Question 1(a). Individuals contributed \$334,000 specifically for the 2004 primary election. While we fail to see the relevance, a number of individuals independently had also reached the contribution limits for the 1998 elections. These individuals contributed \$73,500² of the 2002 totals.

- (3) How much of the \$334,000 in contributions from individuals for the 1998 elections and the 2004 primary election was contributed for:
- a. the 1998 primary election?
\$0.00
 - b. the 1998 general election?
\$0.00.

² In response to question 1(a) in the Acting Associate General Counsel's July 18, 2003 letter, we mistakenly stated this amount to be \$84,000. The other \$10,500 was attributable to PAC contributions from political committees that reached the contribution limits for the 1998 elections. See also Question (4) below.

c. the 2004 primary election?

\$334,000.

(4) Please confirm that of the \$187,000 in contributions from political committees for the 1998 elections and the 2004 primary elections, \$10,500 is from political committees who reached the contribution limit for the 1998 elections.

No. This question incorrectly assumes a "yes" response to Question 1(b). Political committees contributed \$187,000 for the 2004 primary election. While we fail to see the relevance, a number of these committees had also reached the contribution limits for the 1998 elections. These entities contributed \$10,500 of the 2002 totals.

(5) How much of the \$187,000 in contributions from political committees for the 1998 elections and the 2004 primary election was contributed for:

a. the 1998 primary election?

\$0.00.

b. the 1998 general election?

\$0.00.

c. the 2004 primary election?

\$187,000.

(6) How much, if any, of the \$526,000 cash-on-hand that the Committee will use for the four purposes proposed is from contributions designated for past election debt retirement? Please specify how much, if any, of the amount you state in your response to this question is from:

a. contributions designated for 1998 primary election debt retirement?

\$0.00

b. contributions designated for 1998 general election debt retirement?

\$0.00

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c. contributions designated for 1998 primary and general election debt retirement?

\$0.00

Please let us know if you have further questions.

Sincerely,

 (How)

Benjamin L. Ginsberg


Glenn M. Willard