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Perkins  
Coie

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607 Fourteenth Street N.W.  
Washington, D.C. 20005-2011

PHONE: 202.628.6600

FAX: 202.434.1690

www.perkinscoie.com

January 13, 2004

Mr. Lawrence H. Norton  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

AOR 2004-5

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

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Dear Mr. Norton:

America Coming Together (ACT), a non-connected political committee under the Federal Election Campaign Act (FECA), and a political organization under the Internal Revenue Code, is seeking from the Federal Election Commission an advisory opinion addressing issues arising from its activities in conducting a voter mobilization campaign to elect progressive candidates to federal, state and local office in the November 2004 general elections.

### Background

ACT operates and is registered with the Commission as a political committee that will raise and spend funds subject to the requirements of the Act to influence federal elections. ACT is an unincorporated, non-connected committee within the meaning of 11 C.F.R. § 106.6(a); it is not a party committee, nor a separate segregated fund, nor an authorized committee of a candidate. The committee also raises and spends funds to influence state and local elections, including corporate and union funds, and individuals funds raised without regard to the Act's dollar limitations on individual "contributions." In the management of its funds and conduct of its programs, ACT has established both federal and nonfederal accounts pursuant to 11 C.F.R. § 106.6, which provides that non-connected committees active in both federal and nonfederal elections "shall allocate" between federal and nonfederal accounts the costs of activities affecting both types of elections.

Among other activities it conducts as authorized by law, ACT plans to conduct voter mobilization programs, or generic voter drives, within the meaning of 11 C.F.R. § 106.6 (b)(2)(iii). Through these programs, ACT will identify and communicate with, and encourage the registration and the vote of, Americans committed to progressive public policies, the election of candidates who endorse those policies, and the defeat of their opponents. ACT will conduct these programs through personal contact in selected neighborhoods, direct mail, phone calls, return visits, community events, and the Internet.

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Perkins Coie LLP (Perkins Coie LLC in Illinois)

Mr. Lawrence H. Norton  
January 13, 2004  
Page 2

ACT's program turns on the identification and mobilization of target voters on the basis of their positions on particular issues. ACT does not intend to communicate with these voters or the public at large through broadcast, cable, or satellite communications. ACT will not and does not coordinate its activities within the meaning of FEC regulations with any federal, state or local candidate or officeholder, or with any political party organization.

ACT seeks to confirm the legal framework under the FECA, as amended by BCRA and elaborated by FEC regulations, within which it will conduct some of these activities. The Commission has stated that the enactment by Congress of BCRA did not generally affect or alter the effectiveness of these rules as applied to non-connected committees, *see* Advisory Opinion 2003-1 (March 7, 2003). Yet as ACT proceeds to implement this nationwide program of voter mobilization, it seeks Commission confirmation of the specific application of these rules to the management of its federal and nonfederal accounts.

ACT notes that the Commission has pending before it an Advisory Opinion Request from a purported political organization operating under the name of Americans for a Better Country (ABC). There have been indications that ABC seeks to model certain of its activities after ACT's voter mobilization programs, or is seeking to portray itself as it imagines ACT to be in order to elicit an adverse Commission advisory opinion. Notably, ABC has not proffered a single argument in support of the lawfulness of its proposed plans and programs.

However, the ABC Request does not generally present questions pertinent to ACT's activities, and ABC does not present information or raise questions in a way that allows for the Commission to avoid hypotheticals and provide useful guidance to the regulated community. For example, on their face, ABC's questions ask whether or not there is a *per se* prohibition of the conduct described, with the unstated but apparent implication that they entail issues of coordination. In each instance described, FECA imposes no *per se* prohibition and the AOR supplies no facts sufficient for the Commission to comment on specific potential coordination implications. That is because neither the Act nor the regulations prohibit multiple simultaneous or successive business and political relationships, but instead look to whether or not particular conduct occurs with respect to particular public communications. ABC's questions do not reflect an appreciation that the coordination rules only apply to candidates and parties, and also only to personnel working for those candidates and parties in the same election cycle. Nor does the Act or the regulations preclude a person from conveying information to a candidate or party committee about the person's plans or activities. ABC likewise raises questions about "targeting" without apparent recognition that Commission rules limit targeting in some specific instances, when conducted by specified entities, and not in others.

Mr. Lawrence H. Norton  
January 13, 2004  
Page 3

In addition, the ABC AOR posits several hypothetical questions that describe contacts between and among persons and groups that do not include candidates, political party committees or other federal political committees. Again, these questions appear to ask whether or not there is a *per se* prohibition or, implicitly, a coordination issue within the scope of the Act or FEC regulations, and particularly Part 109, Subpart C. In fact, of course, by definition, there is neither. The ABC AOR also asks several questions that refer to statutory or regulatory concepts but describe them in hypothetical and out-of-context circumstances without obvious legal relevance.

ABC's Request, which generally does not satisfy Commission standards for the submission of Advisory Opinion Requests, also fails to raise issues framed appropriately and precisely to invite guidance applicable to ACT or similarly situated political committees.

### Specific Questions

ACT files this Request, seeking the Commission's guidance on the following questions about its proposed activities.

1. *As a non-connected committee, may ACT establish federal and nonfederal accounts pursuant to 11 C.F.R. § 106.6(a)?*

ACT has concluded upon review of the law that as a nonconnected committee, it may clearly establish federal and nonfederal accounts pursuant to 11 C.F.R. § 106.6(a). ACT respectfully seeks confirmation of this point from the Commission.

2. *As a non-connected committee, may ACT raise corporate and union funds, and individual funds raised without regard to limits, for deposit into the nonfederal accounts it establishes pursuant to 11 C.F.R. § 106.6(a)?*

ACT has concluded upon review of the law that as a nonconnected committee, it may raise corporate and union funds, and individual funds raised without regard to limits, for deposit into the nonfederal accounts it establishes pursuant to 11 C.F.R. § 106.6 (a). ACT respectfully seeks confirmation of this point from the Commission.

The Campaign Legal Center and Democracy 21 have filed comments with the Commission on the ABC AOR, arguing that unions and corporations may not contribute to the nonfederal account of a non-connected committee allocating the costs of voter drives and other activities between federal and nonfederal accounts. The groups argue that because voter drives are "partisan," conducted by political

organizations as defined under section 527 of the Internal Revenue Code, any union or corporate contributions made and used for this purpose constitute “indirect” payments in connection with a federal election. Since these comments bear on the analysis required by this Request, ACT wishes to highlight its concerns with the commenters’ stated legal position.<sup>1</sup>

That position is wrong. It is without basis in Commission precedent and inconsistent with the plain language of 11 C.F.R. § 106.6. Section 527 of the Internal Revenue Code refers to political organizations as entities supporting or opposing candidates for election to any public office, federal, state and local. As the Commission has long recognized, corporations and unions may support “partisan activity” related to state and local elections. The Commission’s allocation rules, which remain good law (*see* Advisory Opinion 2003-1), account for the nonfederal component of mixed activities for which corporate and union funds may be spent.<sup>2</sup>

The groups dispute that allocation would lawfully limit union and corporate spending to the nonfederal components of a mixed program. To this end, they cite *McConnell v. FEC*, 124 S. Ct. 619 (2003), with specific reference to the Court’s narration of the problems arising from the allocation permitted to national and state parties for issue advertising. *Id.* at 650-652. Yet this citation disproves the point: the Court was focused on the background to the BCRA prohibitions and restrictions on *parties*. The Congress did not elect to impose similar restrictions on non-connected committees.

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<sup>1</sup> The Center of Responsive Politics also filed comments on the ABC Request, making specific reference to the potential impact on ACT. The Center both concurs in the legal position erroneously advanced by Democracy 21 and the Campaign Legal Center, and in the alternative, sets out comments on the appropriate allocation between federal and nonfederal accounts under 11 CFR 106.6(c). ACT’s response to the Democracy 21/Campaign Legal Center legal arguments applies also to the position of the Center. ACT makes no comment on the allocation-related comments of the Center, since the law and regulations governing these allocations is clearly established, and not believing that further guidance from the Commission is necessary, ACT has requested none. Should the Commission wish to change its allocation regulations, a rulemaking procedure would be the appropriate vehicle.

<sup>2</sup> For this reason, the Commission need not, and should not, reach the arguments made by ABC and the groups based on 11 C.F.R. § 114.4(d). With respect to those arguments, however, it should be noted that ACT is not incorporated and that both ABC and the groups ignore the important distinction, required by the First Amendment and long recognized by the Commission, between the requirements applicable to “registration and voting communications” under § 114.4(c)(2) and the requirements applicable to voter “drives” under § 114.4(d).

Indeed, the Court referred to this distinction in dismissing the plaintiff's Equal Protection claim, stressing that parties and "interest groups" were functionally different and that Congress was constitutionally able to regulate the former while electing against the same treatment of the latter. *Id.* at 80-81.

The Court also emphasized Congress' choice to proceed "cautiously," in incremental steps, in the design of the campaign finance law. *Id.* at 645. In only two aspects of the law is there a prohibition on third-party use of non-earmarked corporate or labor funds of the kind cited by commenters. One such provision, included in the prohibition on "electioneering communications," applies to non-corporate or non-labor entities "using" such funds "donated" by them, 2 U.S.C. § 441b(c)(1), which the statute distinguishes from a union or corporate "indirect[]" disbursement. 2 U.S.C. § 441b(c)(3). Another is found in the law on qualified nonprofit corporations, or "MCFL" corporations, which by definition may not accept union or corporate contributions. *Massachusetts Citizens for Life v. FEC*, 479 U.S. 238 (1986). Nowhere else has Congress adopted the sweeping construction urged by the respondents -- a construction that would have rendered unnecessary the more specific restrictions on indirect corporate and labor contributions. Moreover, the citation to *Federal Election Commission v. California Democratic Party, No Civ. S-970841, E.D. CA 1999*, is wholly inapposite, since that case involved a failure by a political party committee to allocate expenditures, rather than an attack on a scheme of allocation.

It is also erroneous to assert generally that allocation formulas, designed to limit corporate, union and unlimited personal spending to the nonfederal component of mixed activities, "subvert" the purposes of the Act. In BCRA, Congress created a new allocation formula for precisely this purpose, to allow for an allocation between hard and a special kind of "soft money" -- so-called Levin funds -- to finance the costs of voter registration, get-out-the-vote and other mixed activities. These Levin funds may include, of course, corporate and union funds as authorized by state law, subject to a dollar limit imposed by the Act. In a tortured reading of the law, these groups would have the Commission adopt a theory of "indirect" corporate and union federal election activity, in violation of § 441b of the Act, which is inconsistent with an important element in the design of BCRA.

If adopted, this position would produce the outcome that state and local parties could accept corporate and union funds for mixed activities, while nonparty committees like ACT could not. This turns BCRA upside-down. BCRA was concerned principally with the soft money activities of national, state and local parties, largely on the basis of

the potential for, or appearance of, corruption of the federal officeholders so closely associated with the parties. The particular close association of national parties with those officeholders prompted Congress to impose a broad soft money ban on the former. Yet, under the construction advanced by the two commenters, state and local parties could enlist national party officials and employees in the planning for both the raising and spending of this soft money, while non-connected committees, operating entirely independently from the national parties, would be more restricted in their activities.

Finally, we note that the Campaign Legal Center and Democracy 21 also misconceive and misrepresent the nature of political organizations for purposes of section 527 of the Internal Revenue Code. They contend that any voter mobilization activity conducted by an organization exempt from federal taxation under IRC § 527 is by definition "partisan in nature," because a 527's primary purpose must be to influence, or attempt to influence, the selection, nomination, election, or appointment of any individual to any federal, state, or local public office in a political organization or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed." But they blur the real distinctions between non-federal "527"s, on the one hand, and federal political committees on the other. While the federal tax treatment of the contributions they receive is the same, the types of organization are different, inasmuch as a "527" may be involved in state and local, not only federal elections. In addition, the definition of exempt function activity under IRC § 527(e)(2) is not limited to the kinds of activities that constitute contributions and expenditures under FECA § 441b(b)(2). For example, the Internal Revenue Service has made clear that issue advertisements that would constitute "electioneering communications" under FECA do not necessarily fall within the definition of exempt function activities for tax purposes. *See* Rev. Rul. 2004-6, 2004-4 I.R.B. 1. And section 527(e)(2), which includes activities that seek to influence the "nomination" of individuals to any "public office," has been construed to include lobbying efforts in support of or opposition to the nomination of executive and judicial branch officials. *See*, G.C.M. 39694 (1988). Because section 527 "merely imposes conditions upon the receipt of a voluntary tax subsidy," *Mobile Republican Assembly v. United States*, No. 02-16283 (11<sup>th</sup> Cir., Dec. 24, 2003), slip op. at 2, the tax rules applicable to political campaign activity are of a different character from, and not parallel in scope or purpose to, the rules directly regulating such activity under the Act. *See* Internal Revenue Service, Exempt Organizations Continuing Professional Education Text for Fiscal Year 2002, "Election Year Issues," 346-349. *Cf. Regan v. Taxation With Representation*, 461 U.S. 540 (1983).

Mr. Lawrence H. Norton  
January 13, 2004  
Page 7

It is fundamentally mistaken, therefore, to assume that any activity undertaken by a 527 organization automatically violates FECA § 441b(b)(2) if it is undertaken, in whole or part, with corporate or union funds.<sup>3</sup>

3. *As a non-connected committee, may ACT allocate the costs of the described voter mobilization activities, constituting "generic voter drives" as identified at 11 C.F.R. § 106.6(b), between its federal and nonfederal accounts?*

The applicable regulation defines a "generic voter drive" to include:

Voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote or support candidates of a particular political party or associated with a particular issue, without mentioning a specific candidate. 11 C.F.R. § 106.6(b)(1)(iii).

ACT has concluded upon review of the rules, and consistent with the analysis presented under Questions 1 and 2, that such allocation of the cost of generic voter drives is lawful.

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<sup>3</sup>Pri.Ltr.R. 1999-25-051, cited by the groups, supports our position. The finding that the organization's voter mobilization activities were exempt function activities within the meaning of IRC § 527 was based on all of the facts and circumstances, including the organization's acknowledgment that all of its materials and activities "are designed to serve a primarily political purpose and will be inextricably linked to the political process, as demonstrated by the particular facts and circumstances..."

We note also that the Commission's recent Advisory Opinion 2003-36, issued to the Republican Governors Association, is also consistent with views expressed here. There the Commission held that a federal officeholder or candidate could not raise "soft money" for issue programs conducted by a 527 organization, because these programs are inseparable from its election-influencing purpose. In this respect, the Commission's analysis accords with the statute's treatment of officeholder fundraising for 501(c) tax-exempt organizations having as a principal purpose election-related activities. That analysis is distinguishable from the one required here, which concerns a political committee undertaking broad election-related purposes but active in both federal and nonfederal elections.

4. *May ACT officials, in describing their purposes in press releases or press conferences, or in interviews with the press, refer to "Bush Administration," "Republican Party," or "conservative" environmental, civil liberties, social and other policies inimical to a progressive agenda, as defined by ACT?*

ACT cannot identify any rule or prior Commission opinion that limits the public commentary through media outlets about its objectives. These objectives include mobilizing voters around issues; the defeat of President Bush; the defeat of candidates at all levels who support the Administration's economic, social welfare and other key policies; and the election of progressive candidates who oppose these policies and support alternatives. The application of the Act turns on the means selected to achieve those objectives. The means selected by ACT include those activities specifically authorized by 11 C.F.R. § 106.6 and conducted pursuant to the provisions of that rule.

This distinction between objectives and means is critical to the constitutional enforcement of the Act. For example, a corporation may endorse a federal candidate publicly under 114.4(c)(6) of the Commission rules. This endorsement, however, does not affect the company's authority to conduct other activities, including nonpartisan voter drives, sponsorship of candidate debates, or the financing of voting records and voter guides, even if, in the company's judgment, all of these activities will advance the prospects of its favored candidate. The question for purposes of the Act is only whether these corporate-financed activities are conducted by the terms of the specific authorizing rules.

The means-end distinction also largely shaped the Court's holding in *Federal Election Commission v. GOPAC*, 917 F. Supp. 851 (D.D.C. 1996), that GOPAC was not a "political committee" for purposes of the Act. GOPAC supported state and local candidates, but it did so in large part for the stated objectives of advancing Republican prospects for winning control of the US House of Representatives. GOPACs sought to realize this objective by recruiting strong future congressional candidates and securing Republican control of state legislatures that determine congressional reapportionment. Yet while the group's publicly-stated objective was federal election related, the analysis of the means led the Court to find that GOPAC could not be compelled to register as a political committee and to comply with the related statutory requirements.

5. *May ACT include appeals to support candidates associated with particular parties or policy agendas in personal communications with or materials disseminated to voters contacted through the voter mobilization, as authorized by 11 C.F.R. § 106.6(b)(2)?*

As the applicable regulation by its clear terms authorizes this activity, ACT has concluded that it may include appeals to support candidates associated with particular parties or policy agendas in personal communications with or materials disseminated to voters contacted through the voter mobilization program. ACT seeks confirmation from the Commission on this point.

6. *May ACT include references to "Bush Administration" policies in personal communications with or materials disseminated to individuals and organizations solicited for contributions and donations to ACT and its programs?*

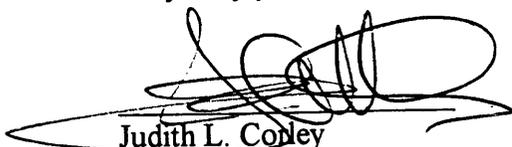
Section 106.6 defines the categories of activities subject to allocation by a non-connected committee operating with both federal and nonfederal accounts. Of these categories, two – generic voter drives and administrative expenses – exclude expenses either “directly attributable to a clearly identified candidate” or “mentioning a specific candidate.” 11 C.F.R. §§ 106.6(b)(2)(i), (iii). This exclusion is not incorporated in the third category, which involves “the direct costs” of fundraising programs and events, including the “solicitation of funds.” 11 C.F.R. § 106.6(b)(2)(ii). The rule on its face treats fundraising activities differently from others.

This is not the only circumstance in which the Commission has chosen to recognize that fundraising communications involve a type of appeal, with “persuasive” content, that should not be burdened with candidate-specific limits in the same way as other persuasive communications. For example, the Presidential primary matching fund rules allow for a broad exclusion for fundraising costs from the state-by-state expenditure limits. 11 C.F.R. § 110.8 (c)(2). The rationale for this treatment of fundraising expenses relates back to the distinction between means and ends discussed previously. Committees should be able when raising funds to discuss freely their objectives, so long as the means chosen to implement those objectives satisfy the requirements of the Act and related Commission rules.

Mr. Lawrence H. Norton  
January 13, 2004  
Page 10

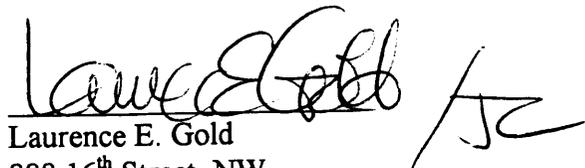
We appreciate the Commission's advice and guidance on these issues.

Very truly yours,



Judith L. Conley

Perkins Coie LLP  
607 14<sup>th</sup> Street, NW  
Suite 800  
Washington, DC 20005  
(202) 434-1622  
Counsel to America Coming Together



Laurence E. Gold

888 16<sup>th</sup> Street, NW  
Fourth Floor  
Washington, DC 20006  
(202) 974-8306  
Counsel to America Coming Together



FEDERAL ELECTION COMMISSION

Washington, DC 20463

January 22, 2004

Judith L. Corley  
Perkins Coie LLP  
607 14<sup>th</sup> Street, N.W.  
Suite 800  
Washington, D.C. 20005

Laurence E. Gold  
888 16<sup>th</sup> Street, N.W.  
Fourth Floor  
Washington, D.C. 20006

Dear Ms. Corley and Mr. Gold:

This refers to your letter dated January 13, 2004, on behalf of America Coming Together ("ACT"), concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a broad range of political activities in the 2003-2004 election cycle.

Commission regulations provide that an advisory opinion request shall set forth specific transactions or activities that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests presenting a general question of interpretation do not qualify as advisory opinion requests. 11 CFR 112.1(b). The Office of General Counsel shall determine if a request is qualified as an advisory opinion request. 11 CFR 112.1(d).

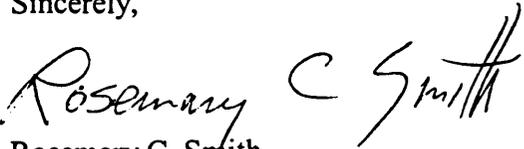
Your letter is not a proper advisory opinion request at this time because several of your questions are general questions of interpretation of the law.

- In question 3, you refer generally to "the described voter mobilization activities" but do not provide such a description of those activities. For example, if the activities include communications, please provide texts and scripts for such communications, and state whether the particular messages will be conveyed by print ad, mass mailing, telephone bank, door-to-door distribution, or other method of communication, and to whom such messages will be distributed.
- Question 4 is not framed in terms of a specific transaction or activity that can be analyzed under the Act and regulations, and thus is not a proper request. 11 CFR 112.1(b). Please reframe this question in the context of a specific transaction or activity.

- In questions 5 and 6, you make general references to “appeals to support candidates associated with particular parties or policy agendas” or “‘Bush Administration’ policies,” but provide no details about particular communications. Please explain what is meant by “personal communications” with voters. In addition, please provide texts and scripts for the communications referred to in questions 5 and 6; state whether the particular messages will be conveyed by print ad, mass mailing, telephone bank, or door-to-door distribution; state who will receive these communications; and state who will make the communications, or be featured in them (e.g., Federal candidates or officeholders).

This Office is willing to meet with you to address how you may properly restate the issues you present in a manner that qualifies under 11 CFR Part 112. If you wish to arrange for such a meeting, or have any other questions, please contact Jonathan Levin, a senior attorney in this Office, at 202-694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Rosemary C. Smith". The signature is written in black ink and is positioned above the typed name.

Rosemary C. Smith  
Acting Associate General Counsel

January 28, 2004

Rosemary C. Smith  
Acting Associate General Counsel  
Office of the General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

2004 JAN 28 P 4: 56

FEDERAL ELECTION  
COMMISSION  
OFFICE OF THE GENERAL  
COUNSEL

Dear Ms. Smith:

We are replying to your letter of January 22, 2004, seeking additional information about certain activities described by ACT in its January 13, 2004 Advisory Opinion Request. You request this additional information on the basis that, without it, certain questions "present general questions of interpretation of the law" that the Commission would be unable to address.

In our Request, we identified numerous specific facts about the nature of the voter drives that ACT proposes to conduct and that are the subject of the original Request. We stated that we would conduct these activities "through personal contact" with voters in selected neighborhoods, and that those contacts would be achieved through the following means: "direct mail, phone calls, return visits, community events, and the Internet." Moreover, we defined these generic voter drives as excluding communications with the voters, or the public at large, through broadcast, cable or satellite communications, and as conducted without coordination with any candidate or party organizations.

It appears that, then, that our Request does in fact cite the audience for the messages, and the means that ACT will use to reach it. We are prepared, however, to provide additional information, including texts and scripts, to assure that the Commission receives the detail needed for a prompt and clear response.

Additional Description of the "Generic Voter Drives" Planned by ACT

ACT intends to contact individual voters, through door-to-door canvasses, to encourage and assist them to register to vote, and then subsequently to encourage and assist them in casting their votes. ACT has proposed, in other words, to conduct activities involving direct one-on-one contact with voters, supplemented by mail, phone and internet contacts to assist them in registration and voting.

ACT proposes to communicate with individual voters with two types of messages: one message urging their registration, and later their voting, on their basis of identification with specific issues, and another seeking registration and voting on the basis of their support for a particular party as it is associated with particular issues.

The following are examples of scripts or messages for canvassers to use in contacting voters directly:

- (A) *Good Morning/Afternoon. My name is \_\_\_\_, and I am here on behalf of America Coming Together, or ACT, which is dedicated to bringing out a large progressive vote this year in the November elections. We are concerned with [Canvasser will pick an issue:] huge deficits, a deteriorating health care system, regressive tax cuts, and a military occupation in the Middle East that has alienated the international community but not served our security needs.*

*We would like to hear your views on this issue and any other issues of concern to you. [Canvasser then invites a discussion or exchange with the potential voter to determine response on these issues, and also any others the voter seems concerned about. Canvasser will make detailed notes of the discussion. The Canvasser will not make, or encourage, comments about any specific candidate, but will keep the discussion focused on issues. Canvasser will then resume comments:]*

*We appreciated the opportunity to speak with you. We would like to stay in touch, and to keep you engaged on these vital issues.*

- (B) *Good Morning/Afternoon. My name is \_\_\_\_, and I am here on behalf of America Coming Together, or ACT, which is dedicated to bringing out a large Democratic vote this year in the November elections. We are concerned with [Canvasser will pick an issue:] huge deficits, a deteriorating health care system, regressive tax cuts, and a military occupation in the Middle East that has alienated the international community but not served our security needs.*

*We would like to hear your views on this issue or any other issues of concern to you. [Canvasser then invites a discussion or exchange with the potential voter to determine response on these issues, and also any others the voter seems concerned about. Canvasser will make detailed notes of the discussion. The Canvasser will not make, or encourage, comments about any specific candidate, but will keep the discussion focused on issues promoted by and traditionally associated with the*

Democratic Party, like the protection of Social Security and Medicare, improved access to health care, a robust regime of civil liberties, and responsible fiscal policies. Canvasser will then resume comments:]

*We appreciated the opportunity to speak with you. We would like to stay in touch, and to keep you engaged on these vital issues.*

We once again request Commission confirmation that as a non-connected committee, ACT may allocate the costs of a voter drive that includes communications like these with individual voters, pursuant to section 106.6(b), between its federal and nonfederal accounts.

Additional Information on Question 4.

ACT receives regular requests from the press for interviews with ACT officials about its political orientation and broad political objectives. Moreover, ACT wishes to issue press releases commenting on key national issues, distributing the releases to major media outlets. These public commentaries will include references like "Bush Administration policies" or "Republican Party policies" or "conservative agenda" or "right-wing agenda" to characterize policies on which ACT wishes to make a statement. For example, the following talking points could be used by ACT officials in talking to the press and also be distributed to media representatives as background on the organization.

1. *ACT is a national political organization dedicated to an historic registration and get-out-the-vote effort to turn out a huge progressive vote in November.*
2. *ACT believes that this election will determine the course of the country for years to come: on a range of issues including civil rights, fiscal policy, civil liberties, the protection of the environment, and our constructive involvement in the international community of nations.*
3. *In all these areas and others, the country has experienced the effects of the Republican control of key state legislatures and statehouses, of the Congress, and of the White House. Those effects, we believe, have been disastrous for progressive and inclusive government in America.*
4. *The hard right-wing will make this election a test of the Bush Administration policies, and the future of those policies will be at stake in elections for offices up and down the November ballot. We must contest elections around the country that will determine whether those*

*policies will determine the policy agenda and direction for the country for years to come.*

5. *We believe that voters are ready to face a real choice in the coming elections. We will urge them to register and vote for candidates who are committed to a fully progressive agenda of restoring fiscal responsibility; providing affordable health care to millions of Americans who currently do not have it; protecting the civil rights and liberties of all Americans; and protecting the environment from reckless development for the benefit of special interests. And we will urge them to register and vote against candidates throughout the country who support right-wing Bush Administration social, economic, and foreign policies.*

We renew our request for the Commission's confirmation that ACT may distribute such communications to the press, through its normally used media outlets, in the course of giving press interviews, or describing its programs, without adverse affects on its ability to conduct the canvass pursuant to 11 CFR 106.6 as described in the first response.

Additional Information about Questions 5 and 6.

Question 5. We have included proposed texts for communications with voters, and described the nature of "personal communications" with individual voters through the canvasses, in the first response. Those texts contain the "appeals to support candidates associated with particular parties or policy agendas." We renew our request for a Commission Opinion that these types of communications, undertaken through the described individual voter canvass, may be financed on an allocated basis pursuant to 11 CFR section 106.6.

Question 6. The personal communications cited in the background for Question 6 would consist of oral or written solicitation of funds for ACT. These solicitations would be directed to potential donors around the country, selected on the basis of their previous support for Democratic and progressive candidates. The communications would be made in the course of meeting with donors, and also in letters directed to them.

We would ask for the Commission's guidance on two examples of such solicitations that we would propose to direct, in the form of letters, to a list of potential progressive donors:

## First Proposed Letter

Dear:

*I would like to ask you to consider making a major difference to our country's future—at a critical time, when it faces historic challenges, and also dangers. I would like to ask you to make the difference, by helping a new national progressive organization, America Coming Together (ACT).*

*ACT is a national political organization dedicated to an historic registration and get-out-the-vote effort to turn out a huge progressive vote in November.*

*ACT believes that this election will determine the course of the country for years to come: on a range of issues including civil rights, fiscal policy, civil liberties, the protection of the environment, and our constructive involvement in the international community of nations.*

*In all these areas and others, the country has experienced the effects of the Republican control of key state legislatures and statehouses, of the Congress, and of the White House. Those effects, we believe, have been disastrous for progressive and inclusive government in America.*

*The hard right-wing will make this election a test of the Bush Administration policies, and the future of those policies will be at stake in elections for offices up and down the November ballot. We must contest elections around the country that will determine whether those policies will determine the policy agenda and direction for the country for years to come.*

*ACT believes that voters are ready to face a real choice in the coming elections. We will urge them to register and vote for candidates who are committed to a fully progressive agenda of restoring fiscal responsibility; providing affordable health care to millions of Americans who currently do not have it; protecting the civil rights and liberties of all Americans; and protecting the environment from reckless development for the benefit of special interests. And we will urge them to register and vote against candidates throughout the country who support right-wing Bush*

*Administration social, economic, and foreign policies. And we will do so through the use of the most modern and proven organizing techniques that will bring out a progressive vote of historic proportions.*

*But to do so this—we will need your help. So please, ACT now, by supporting ACT.*

Second Proposed Letter:

*Dear:*

*I would like to ask you to consider making a major difference in our country's future – at a critical time, when it faces historic challenges, and also dangers. I would like to ask you to make the difference, by helping a new national progressive organization, America Coming Together (ACT).*

*ACT is a national political organization dedicated to an historic registration and get-out-the-vote effort to turn out a huge progressive vote in November.*

*ACT believes that this election will determine the course of the country for years to come: on a range of issues including civil rights, fiscal policy, civil liberties, the protection of the environment, and our constructive involvement in the international community of nations.*

*In all these areas and others, the country has experienced the effects of the Republican control of key state legislatures and statehouses, of the Congress, and of the White House. Those effects, we believe, have been disastrous for progressive and inclusive government in America, and with your help, we can achieve dramatic change with the defeat of the Bush-Cheney team and their allies up and down the November ticket.*

*The hard right-wing will make this election a test of the Bush Administration policies, and the future of those policies will be at stake in elections for offices up and down the November ballot. We must contest elections around the country that will determine whether those policies will determine the policy agenda and direction for the country for years to come. Only by*

*doing this, can we reverse the dangerous direction charted by our country in the last three years.*

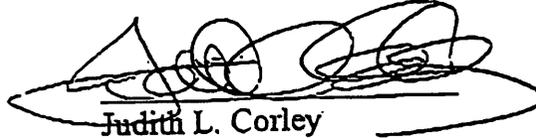
*ACT believes that voters are ready to face a real choice in the coming elections. We will urge them to register and vote for candidates who are committed to a fully progressive agenda of restoring fiscal responsibility, providing affordable health care to millions of Americans who currently do not have it, protecting the civil rights and liberties of all Americans and protecting the environment from reckless development for the benefit of special interests. And will urge them to register and vote for new leadership in the White House and for candidates throughout the country who support a reversal of the right-wing Bush Administration social, economic, and foreign policies. And we will do so through the use of the most modern and proven organizing techniques that will bring out a progressive vote of historic proportions.*

*But to do this -- we will need your help. So, please, ACT now, by supporting ACT.*

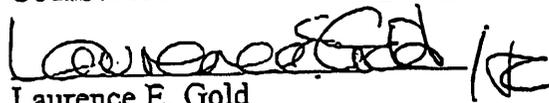
We renew our request for a Commission opinion that references like those in the attached letters for purposes of such a solicitation of funds may be allocated between federal and nonfederal accounts, pursuant to section 106.6.

Finally, while we appreciate the offer of a meeting, we do not believe that it is necessary to present in person the same information as is contained in this letter which we are presenting promptly upon receiving your request, so that we may have the earliest possible Commission decision.

Very truly yours,



Judith L. Corley  
Perkins Coie  
607 14<sup>th</sup> St. NW  
Suite 800  
Washington, DC 20005  
202-434-1622  
Counsel to America Coming Together



Laurence E. Gold  
888 16<sup>th</sup> St NW  
Fourth Floor  
Washington, D.C. 20006  
202-974-8306  
Counsel to America Coming Together