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**Democratic Election Reporting Education Fund (DEREF)**

91 NOV 25 PM 3:25

PO Box 25243

Alexandria, VA 22313

November 24, 1991

Mr. Lawrence M. Noble  
Federal Election Commission  
Office of General Counsel  
999 E Street NW  
Washington, DC

Re: Advisory Opinion Request

Gentlemen:

**AOR 1991-37**

91 NOV 25 PM 4:45  
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FEDERAL ELECTION COMMISSION

Attached is a summary of the facts regarding our request for an Advisory Opinion from the Federal Election Commission. A newly established political action committee (Democratic Election Reporting Education Fund) intends to offer in-kind accounting and FEC compliance services to campaign committees or candidates and requests clarification of some regulations and an advisory opinion regarding our proposed transaction.

We respectfully request that the opinion be expedited, if possible, in order to receive a finalized response within 30 days. Please review the summary and contact me at (703) 519-3530 if you have any questions or need further information.

I appreciate your assistance and your quick response.

Sincerely,

*Linda Michelsen*

Linda Michelsen

**ADVISORY OPINION REQUEST  
DEMOCRATIC ELECTION REPORTING EDUCATION FUND (DEREF)**

A political committee (Democratic Election Reporting Education Fund "DEREF") was recently established and has filed with the FEC. Please see attached FEC Form 1. It plans to be registered as a multi-candidate political committee after the requisite time and contributions received and expended rules. The purpose of DEREf is to provide political candidates or campaign committees with inkind accounting and FEC reporting compliance services.

Five individuals decided to organize a nonconnected political committee. One of the individuals is a certified public accountant and the president of an accounting & financial consulting firm (Campaign Financial Consultants, Inc. "CFC") which advises campaigns and other political committees on accounting systems and federal election compliance. The other individuals are not employed by nor have a financial interest in the accounting firm. The other individuals are only associated with the PAC due to their interest in and concern for accurate reporting and the need for assistance to campaign organizations and its volunteers. One individual, an attorney from California, ran for Congress twice and knows first hand the importance of accurate filing and the need for educating campaign organizations on the rules. The third individual holds a degree in accounting and is currently obtaining an advanced degree in public policy. He is involved in politics in Illinois and due to his accounting background believes education on FEC rules and accounting system setup is critical. The fourth individual, an attorney from New Jersey, has had a lifelong involvement in Democratic politics and due to this involvement is aware of and concerned for accurate reporting. The fifth individual is also substantially involved in politics and is connected with a labor organization and its connected political committee. Since these individuals are based in various areas of the country and have differing backgrounds they provide an objective overview for the PAC and its proposed contributions.

The initial costs of organizing DEREf will be paid by the individual organizers. These costs, such as the post office box, has been paid from the individual's personal checking account, and will be shown as an inkind contribution from that individual on the FEC report. There should be minimal organization costs other than incorporation fees, etc. Afterwards DEREf will be self-supporting in that all of its operational expenses will be paid solely from contributions received by DEREf. The aforementioned accounting

firm, which is incorporated, shall not provide any direct or indirect influence, financial or other support for the operation or establishment of DEREf. In addition, the corporation is not owned by nor owns any other corporation or entity.

DEREF will provide for the election of a board of directors by contributors to the political committee. This board will determine which political candidates or campaign committees will receive assistance from DEREf. The method of establishing the board has not been decided. We accept any suggestions the Commission offers.

DEREF will, in accordance with 2 U.S.C. Section 441b, solicit any individual or person for contributions permitted under the Federal Election Commission Act.

DEREF currently maintains no office. However, it plans to maintain an office via one of two possible alternatives:

1. it will maintain a separate office, phone system, etc., or
2. it will maintain an office which is also shared by the accounting firm. However, all expenses such as rent, phone charges, and other administrative charges will be paid from funds of DEREf at the actual costs of those expenses. Charges such as photocopies will be based on either a set "cents per page" charge or an allocation of the monthly charge also based on pages copied. The telephone charges, if the PAC does not maintain totally separate phone lines, will be based on a combination of the actual long distance charges and the base monthly charge allocated based on the staff time allocation. EXAMPLE - If staff has worked for the PAC for 60% of their time in that particular month then the base charges would be allocated in the same percentage. Each month the base charges would be allocated in the same percentage as the staff time allocation. Other charges that are not specifically identifiable would be allocated along these same lines.

In providing in-kind accounting or compliance services to political candidates or campaign committees DEREf proposes two alternative methods by which DEREf would provide such services:

1. DEREf would purchase the services of the accounting firm at a "normal and usual" or "commercially reasonable" hourly rate which is charged by the accounting firm for its other nonpolitical clients. The hourly charge would be based on the skill and experience of the employees.

It is our opinion that the accounting firm should be considered and is, in fact, a third party vendor which could bill and receive payment in its due course of business. However, if there is any question that the corporation's payment of compensation to an individual who renders services to a campaign committee or candidate would be prohibited under 2 U.S.C. Section 441b(b)(2) the following option is offered.

The services would be paid by an advance payment method where DEREf will determine the number of hours or days each employee is expected to work for each candidate and will pay CFC for these services, all in advance of when such services are provided to each candidate and the employee is compensated for such services. If, in some instances, the number of hours or days of services to be provided to a candidate would exceed the advance payment, DEREf and CFC would estimate the remaining work and DEREf would make an additional payment before the work is provided. If there is an excess payment such excess will be applied against future services obtained from CFC.

Expenses such as meals, lodging, and airfare will be paid either by the employee and reimbursed by DEREf or paid by DEREf directly to the travel or other vendors. We also request clarification on whether the campaign committee could pay for such travel, etc. (either reimbursing the individual or DEREf) and still receive the accounting and other consultation services as an inkind contribution.

2. The second alternative is a dual employment status method whereby individuals could be employed by both DEREf and CFC. The hours worked for each entity would be determined by the time/hours spent by the individual for each employer. Any fringe benefits would either be paid directly from each entity or one entity would reimburse the other for the fringe benefit costs pursuant to 11 CFR 114.12(c).

Clarification is requested whether the political committee (DEREf) can assign an equivalent hourly value as the inkind contribution (similar to the hourly rate charged by the accounting firm as a third party vendor) rather than value the inkind contribution service at the employee's actual salary rate. To elaborate:

Under Alternative 1 - Purchase Accounting Firm Services - If the accounting firm charges a rate of \$100 per hour (actual hourly rate has not been established) the PAC would purchase this service at that rate and base the inkind contribution as the amount paid.

Under Alternative 2 - Dual Employment Status - the employee salary rate would be much lower, i.e. \$30.00 per hour. We would like to base the value of the inkind contribution on a higher rate than the employee's salary rate by making it equivalent to the \$100 per hour charged by the accounting firm.

The political committee would also like to establish an honorary advisory board consisting of Senators, Congressmen and other dignitaries. Their names would appear on the letterhead or other printed material but they would not have influence or control over determining which political candidates or campaign committees would receive the inkind services of DEREf.

Refer to following Advisory Opinions:

AO 1984-12 - A political committee which receives no direct or indirect support for its establishment, administration, or operation from its organizing body may be treated under election law as a non-connected committee.

AO 1984-37 - A PAC may buy consulting services from employees of its parent organization as long as the purchase does not involve the initial disbursement of the parent organization's treasury for the services. (Differentiates from our request since there is no "parent" organization - however, principles are the same regarding use of corporate funds, etc.)

**SUMMARY OF  
ISSUES TO BE ADDRESSED  
BY FEDERAL ELECTION COMMISSION**

1. Will the PAC (DEREF) be considered a nonconnected political committee?
2. Will either alternative for maintaining an office violate any Federal Election laws or regulations?
3. Will the accounting firm services be considered those performed by a third party vendor and thus allow the firm to bill and receive payments in its due course of business without such services being considered an "advance" of corporate funds?
4. If question 3 is answered in the negative will either or both alternatives for providing services comply with all the FEC law and regulations?
5. May DEREf or the accounting firm charge the campaign committee for expenses such as meals, travel, etc.?
6. May DEREf assign an hourly rate (equivalent to the hourly rate charged by the accounting firm) as the in-kind contribution rather than the employee's actual salary rate?
8. Would the existence of an honorary advisory board consisting of Senators, Congressmen, etc. violate any FEC law or regulations?