



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

August 13, 1992

CERTIFIED MAIL.  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1992-27

Jan Witold Baran  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Dear Mr. Baran:

This responds to your letters dated July 7 and July 15, 1992, concerning application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to a proposed retroactive allocation of certain fundraising costs by the National Republican Senatorial Committee ["NRSC"].

Commission rules at 11 CFR 106.5(a)(2)(ii) require political committees that make disbursements in connection with both Federal and non-federal elections to allocate expenses for

the direct costs of fundraising programs or events, including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where Federal and non-federal funds are collected by one committee through the program or event.

Senate and House campaign committees allocate these costs according to the funds received method, 11 CFR 106.5(c)(3), (f); and report these transactions pursuant to 11 CFR 104.10(b)(2). The allocation rules and reporting requirements became effective on January 1, 1991.

You explain that, on the date these rules became effective, the NRSC did not have an accounting and reporting system in place that could accommodate the new allocation and reporting requirements. Such a system was implemented on March 1, 1992; and the NRSC has been allocating its fund-raising expenditures since that time. The NRSC would now like to

retroactively allocate the fundraising expenditures covered by 11 CFR 106.5(a)(2)(ii) for the period January 1, 1991, through February 29, 1992 (the "adjustment period").

You state that these costs include salaries and benefits attributable solely to fundraising, and that the NRSC's records distinguish between fundraising expenses and administrative or other expenses. Your request covers two types of fundraising, both of which raise funds for both Federal and non-federal candidates: direct mail that contains purely fundraising messages; and major donor programs, such as the NRSC Trust and Round Table, which are event-oriented, 100% fundraising programs. Your request does not encompass joint fundraising events conducted pursuant to 11 CFR 102.17, but only pure NRSC fundraising events.

The NRSC is free to pay all of its fundraising expenses from its Federal account. See 11 CFR 106.5(a)(1). However, you state that the NRSC did this only because it did not have the capacity to allocate these expenditures until March 1 of this year -- it would have allocated this money earlier, had the proper accounting and reporting programs been in place.

The Commission recognized in Advisory Opinion 1992-2 that "the allocation regulations represent significant revisions to past practice and require a brief period of adjustment, i.e., the current [1991-92] election cycle, by political committees acting in good faith." In that opinion, it allowed a national party committee to take expenses that had previously been allocated as administrative expenses and retroactively reallocate them as direct costs of fundraising. Two other opinions permitted retroactive changes in formulae used to allocate administrative costs or the costs of generic voter drives, after the occurrence of a mistake or an intervening event. Advisory Opinions 1991-15, 1991-25. In each instance, the requesting committee was given thirty days from the date of the advisory opinion to make the necessary reallocations.

The Commission concludes that the NRSC may retroactively allocate its fundraising expenditures under 11 CFR 106.5(a)(2)(ii) for the period January 1, 1991, through February 29, 1992. The NRSC has a thirty day period from the date of issuance of this opinion to make the necessary allocations, and the allocated amounts must be included in the NRSC's next report required to be filed after the allocations are made.

The NRSC should include in its report to the Commission an explanatory letter noting the reason for the new allocations and resulting transfers. It should also file new Schedule H2's, H3's, and H4's, relative to each fundraising program or event that serves as the basis for these new allocations.<sup>1/</sup>

A sample explanatory letter and sample Schedules are attached. Schedule H2 indicates that the newly-reported Federal/non-federal ratios are "new," since this is the first time these have been treated as joint activities.

On the Schedule H4's, instead of listing the "event year to date" totals, the NRSC may, at its option, provide an "adjustment period total." That is, it need not provide a year-by-year total for those programs or events for which expenditures were made in both 1991 and 1992. If it chooses this option, the Committee should clearly so note on the pertinent H4's.

New information will also be required on the Detailed Summary Page. The NRSC should provide in its explanatory letter the total figure the non-federal account has underpaid the Federal account, and reflect the transfer on line 18 of the Detailed Summary Page. This will require a comparable adjustment on line 19, "Total Receipts."

In addition, the NRSC has previously reported these expenditures on line 21(b), "Other Federal Operating Expenditures." The fundraising expenses being allocated should now be subtracted from this total and added, broken down into the Federal and non-Federal shares, on lines 21(a)(i) and (ii).

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely,

(signed)

Joan D. Aikens  
Chairman for the Federal Election Commission

Attachments

Enclosures (AO's 1991-15, 1991-25, and 1992-2)

ENDNOTE

1/ These will be new, rather than revised, H schedules, because the expenditures involved have not formerly been allocated. Until now, they have been reported as operating expenditures itemized on schedule B.

**EXPLANATORY LETTER**

**TO:           Federal Election Commission  
                  Reports Analysis Division**

**FROM:          National Republican Senatorial Committee**

**RE:            Adjustments in Accordance with AO 1992-27**

The NRSC is submitting Schedules H2, H3, and H4 for joint fundraising expenses for the period January 1, 1991, through February 29, 1992, as authorized by Advisory Opinion 1992-27. These expenses were originally paid 100% from the Federal account.

The total amount transferred from the non-federal to the Federal account as a result of these new allocations is  
\$                   .

## NAME OF COMMITTEE

National Republican Senatorial Committee

## ALLOCATION RATIOS FOR INDIVIDUAL FUNDRAISING EVENTS, EXEMPT ACTIVITIES, AND SHARED DIRECT CANDIDATE SUPPORT APPEARING ON THIS REPORT.

## Methods of allocation:

- I. **FUNDRAISING** activities are allocated using the "funds received method" where the federal proportion of expenses must equal the federal proportion of monies raised.
- II. **EXEMPT** activities are allocated using the "time and space method" where the federal proportion of disbursements is based on the proportion of time or space devoted to federal candidates.
- III. **Shared DIRECT CANDIDATE** support activities are allocated according to benefit expected to be derived, where the federal proportion of disbursements is based on the benefit derived by federal candidates from the activity.

NAME OF ACTIVITY OR EVENT	FEDERAL %	NON-FEDERAL %
<b>Eagle Fundraising Letter</b> ACTIVITY IS: <input checked="" type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT <input type="checkbox"/> DIRECT CANDIDATE SUPPORT CHECK IF THE RATIO IS: <input checked="" type="checkbox"/> NEW <input type="checkbox"/> REVISED <input type="checkbox"/> SAME AS PREVIOUSLY REPORTED	70	30
<b>Chairman's Gala</b> ACTIVITY IS: <input checked="" type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT <input type="checkbox"/> DIRECT CANDIDATE SUPPORT CHECK IF THE RATIO IS: <input checked="" type="checkbox"/> NEW <input type="checkbox"/> REVISED <input type="checkbox"/> SAME AS PREVIOUSLY REPORTED	80	20
<b>NAME OF ACTIVITY OR EVENT</b>	<b>FEDERAL %</b>	<b>NON-FEDERAL %</b>
ACTIVITY IS: <input type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT <input type="checkbox"/> DIRECT CANDIDATE SUPPORT CHECK IF THE RATIO IS: <input type="checkbox"/> NEW <input type="checkbox"/> REVISED <input type="checkbox"/> SAME AS PREVIOUSLY REPORTED		
<b>NAME OF ACTIVITY OR EVENT</b>	<b>FEDERAL %</b>	<b>NON-FEDERAL %</b>
ACTIVITY IS: <input type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT <input type="checkbox"/> DIRECT CANDIDATE SUPPORT CHECK IF THE RATIO IS: <input type="checkbox"/> NEW <input type="checkbox"/> REVISED <input type="checkbox"/> SAME AS PREVIOUSLY REPORTED		
<b>NAME OF ACTIVITY OR EVENT</b>	<b>FEDERAL %</b>	<b>NON-FEDERAL %</b>
ACTIVITY IS: <input type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT <input type="checkbox"/> DIRECT CANDIDATE SUPPORT CHECK IF THE RATIO IS: <input type="checkbox"/> NEW <input type="checkbox"/> REVISED <input type="checkbox"/> SAME AS PREVIOUSLY REPORTED		
<b>NAME OF ACTIVITY OR EVENT</b>	<b>FEDERAL %</b>	<b>NON-FEDERAL %</b>
ACTIVITY IS: <input type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT <input type="checkbox"/> DIRECT CANDIDATE SUPPORT CHECK IF THE RATIO IS: <input type="checkbox"/> NEW <input type="checkbox"/> REVISED <input type="checkbox"/> SAME AS PREVIOUSLY REPORTED		

Amounts transferred pursuant to AO 1992-27

NAME OF COMMITTEE	TOTAL AMOUNT TRANSFERRED		
NAME OF ACCOUNT	DATE OF RECEIPT	\$	
<b>National Republican Senatorial Committee</b>	<b>0/00/92</b>	<b>\$ 30,000</b>	
<b>BREAKDOWN OF TRANSFER RECEIVED</b>			
	ADMIN/VOTER DRIVE AMOUNT	DIRECT FUND- RAISING AMOUNT	EXEMPT ACTIVITY/DIRECT CANDIDATE SUPPORT
i) Total Administrative/Voter Drive .....			
ii) Direct Fundraising (List Events-Amount for Each)			
a) <u>Eagle Fundraising Lett</u>		15,000	
b) <u>Chairman's Gala</u>		15,000	
c) <u>etc.</u>			
d) _____			
e) Total Amount Transferred For Direct Fundraising .....			
iii) Exempt Activity/Direct Candidate Support (List Events-Amount For Each)			
a) _____			
b) _____			
c) _____			
d) _____			
e) Total Amount Transferred For Exempt Activity/Direct Candidate Support .....			
NAME OF ACCOUNT	DATE OF RECEIPT	\$	
		\$	
	ADMIN/VOTER DRIVE AMOUNT	DIRECT FUND- RAISING AMOUNT	EXEMPT ACTIVITY/DIRECT CANDIDATE SUPPORT
i) Total Administrative/Voter Drive .....			
ii) Direct Fundraising (List Events-Amount for Each)			
a) _____			
b) _____			
c) _____			
d) _____			
e) Total Amount Transferred For Direct Fundraising .....			
iii) Exempt Activity/Direct Candidate Support (List Events-Amount For Each)			
a) _____			
b) _____			
c) _____			
d) _____			
e) Total Amount Transferred For Exempt Activity/Direct Candidate Support .....			
	TOTALS FOR BREAKDOWN OF TRANSFER RECEIVED		
	ADMIN/VOTER DRIVE AMOUNT	DIRECT FUND- RAISING AMOUNT	EXEMPT ACTIVITY/DCS
<b>SUBTOTAL THIS PAGE .....</b>		<b>30,000</b>	
<b>TOTAL THIS PERIOD .....</b>			

(Attachment to AO 1992-27)

NAME OF COMMITTEE

National Republican Senatorial Committee

A. FULL NAME, MAILING ADDRESS & ZIP CODE	PURPOSE/EVENT printing/ Eagle Fund- raising Letter	DATE 1-10-92	TOTAL AMOUNT 1,000	FEDERAL SHARE 700	NON-FEDERAL SHARE 300
ABC Printers 123 Main Street Washington, D.C. 20000					
CATEGORY: <input type="checkbox"/> ADMINISTRATIVE/VOTER DRIVE <input checked="" type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT EVENT YEAR-TO-DATE: \$ 3,000 <input type="checkbox"/> DIRECT CANDIDATE SUPPORT					
B. FULL NAME, MAILING ADDRESS & ZIP CODE	PURPOSE/EVENT food/ Chairman's Gala	DATE 1-10-92	TOTAL AMOUNT 1,000	FEDERAL SHARE 800	NON-FEDERAL SHARE 200
XYZ Caterers 456 Broad St. Washington, D.C. 20000					
CATEGORY: <input type="checkbox"/> ADMINISTRATIVE/VOTER DRIVE <input checked="" type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT EVENT YEAR-TO-DATE: \$ 3,000 <input type="checkbox"/> DIRECT CANDIDATE SUPPORT					
C. FULL NAME, MAILING ADDRESS & ZIP CODE	PURPOSE/EVENT	DATE	TOTAL AMOUNT	FEDERAL SHARE	NON-FEDERAL SHARE
CATEGORY: <input type="checkbox"/> ADMINISTRATIVE/VOTER DRIVE <input type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT EVENT YEAR-TO-DATE: \$ <input type="checkbox"/> DIRECT CANDIDATE SUPPORT					
D. FULL NAME, MAILING ADDRESS & ZIP CODE	PURPOSE/EVENT	DATE	TOTAL AMOUNT	FEDERAL SHARE	NON-FEDERAL SHARE
CATEGORY: <input type="checkbox"/> ADMINISTRATIVE/VOTER DRIVE <input type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT EVENT YEAR-TO-DATE: \$ <input type="checkbox"/> DIRECT CANDIDATE SUPPORT					
E. FULL NAME, MAILING ADDRESS & ZIP CODE	PURPOSE/EVENT	DATE	TOTAL AMOUNT	FEDERAL SHARE	NON-FEDERAL SHARE
CATEGORY: <input type="checkbox"/> ADMINISTRATIVE/VOTER DRIVE <input type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT EVENT YEAR-TO-DATE: \$ <input type="checkbox"/> DIRECT CANDIDATE SUPPORT					
F. FULL NAME, MAILING ADDRESS & ZIP CODE	PURPOSE/EVENT	DATE	TOTAL AMOUNT	FEDERAL SHARE	NON-FEDERAL SHARE
CATEGORY: <input type="checkbox"/> ADMINISTRATIVE/VOTER DRIVE <input type="checkbox"/> FUNDRAISING <input type="checkbox"/> EXEMPT EVENT YEAR-TO-DATE: \$ <input type="checkbox"/> DIRECT CANDIDATE SUPPORT					
SUBTOTAL OF JOINT FEDERAL AND NON-FEDERAL ACTIVITY THIS PAGE .....			2,000	1,500	500
TOTAL THIS PERIOD (last page for each line only)(Fed. share to 21 a i and non-Fed. share to 21 a ii) .....					
TOTAL THIS PERIOD FOR THE NON-FEDERAL SHARE (used for line 31 of the detailed summary page) .....					

If applicable, add the following note: For purposes of this submiss: only  
the "event year-to-date" entry is the adjustment period total.