

National Republican Senatorial Committee

SENATOR PHIL GRAMM
CHAIRMAN

JEB HENSARLING
EXECUTIVE DIRECTOR

November 6, 1992

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

AOR 1992-39

Dear Mr. Noble:

On behalf of the National Republican Senatorial Committee ("NRSC"), I hereby request an expedited Advisory Opinion from the Federal Election Commission ("Commission") pursuant to 2 U.S.C. 437f of the Federal Election Campaign Act ("Act") and 11 C F R. 112.4 of the Commission's regulations

FACTS

Neither the Republican nor the Democrat candidate for the U.S. Senate seat in Georgia received a majority of the vote on election day, November 3, 1992. Under Georgia state law a run-off is required. The run-off is to be held on November 24, 1992. The Republican National Committee ("RNC") and the State Republican Party of Georgia ("RPG") have authorized, and continue to authorize the NRSC, by agency agreement, to expend their share of any remaining, or any new, 441a(d)(3) coordinated expenditures for the benefit of the Republican senate candidate in connection with this run-off.

QUESTIONS PRESENTED

1. May the NRSC (and its Democrat national committee counterpart) make full new 441a(d)(3) expenditures on behalf of its U.S. Senate candidate in Georgia given the fact that the initial general election is complete and that a second election is to occur?
2. If no new 441a(d)(3) expenditures are permitted, is the NRSC (and its Democrat national committee counterpart) prohibited from making any 441a(d)(3) expenditures given the fact that both the initial opportunity to do so and the general election have passed?

DISCUSSION

The Act states that " the national committee of a political party and a state committee of a political party may make expenditures in connection with the general

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PAID FOR AND AUTHORIZED BY THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE

election campaign of candidates for Federal office..." [emphasis added] 2 U.S.C. 441a(d)(1). As the Commission knows, these are the so called "coordinated expenditures" that political party committees are permitted to coordinate with and expend on behalf of their respective candidates for the U S. Senate

The general election has passed. A plain reading of the above-referenced portion of the Act would seem to prohibit any further coordinated expenditures being made after the general election. Guidance is sought with respect to the issues presented so that neither political party committee, under its own interpretation of the law, will immediately press forward with expending large amounts of coordinated expenditures so as to gain an unfair advantage in the Georgia senate race before the Commission can rule on the matter.

Presumably the basis for permitting both political party committees the opportunity to spend an identical coordinated amount (as set forth by the formula under 2 U.S.C. 441a(d)(3)) in connection with the general election is to keep both candidate campaigns on equal footing. Therefore, it would seem that in order to maintain equal footing, both political party committees should be allowed to expend no further coordinated amounts now that the general election has passed, or both should be allowed to expend a full new coordinated amount . The initial coordinated amount for 1992 in Georgia was approximately \$535,600.

In sum, the NRSC seeks guidance on what the treatment of 441a(d) expenditures will be in this post general election period.

A copy of this Advisory Opinion request has been forwarded to the Democratic National Committee, the Democratic Senatorial Campaign Committee and the Georgia Democratic State Party so that hopefully both sides of this senate election run-off, in good faith, will not expend coordinated sums in an effort to gain an advantage before the Commission can reach a conclusion.

If I can provide you with further information, please do not hesitate to contact me.

Sincerely,



Jay Velasquez

Legal Counsel

on behalf of the NRSC