



February 4, 2004

**VIA E-MAIL**

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

**Re: AOR 2003-38 U.S. Representative Elliot Engel**

Dear Mr. Norton:

We are writing on behalf of the Center for Responsive Politics (CRP) and its campaign finance law project FEC Watch to comment on the alternative drafts of AO 2003-38, which address the application of the Bipartisan Campaign Reform Act of 2002 (BCRA) to a redistricting committee established by a Member of Congress. Representative Engel intends to join in the establishment of a committee that will work on redistricting issues in the state of New York. He asks whether amounts raised by this committee will be subject to the prohibitions and limitations in the Federal Election Campaign Act (FECA), as amended, 2 U.S.C. § 431 *et seq.*

Draft B properly recognizes that BCRA has the effect of changing the standard that applies to redistricting committees in determining whether or not they may raise nonfederal funds. Instead of the "for the purpose of influencing standard," the Commission must now determine whether the activities of redistricting committees are in connection with a federal or nonfederal election. Draft B correctly concludes that they are in connection with an election, and thus are subject to the Act's prohibitions and limitations. For these reasons, we urge the Commission to adopt Draft B.

Although AOR 2003-38 does not seek guidance about committees established for recounts and election contests, we note that the same analysis would seem to apply to these entities. Thus, the Commission may want to review the provisions relating to these committees in 11 CFR 100.91 and 100.151. While these provisions may still be valid exceptions from the "for the purpose of influencing" standard in the contribution and expenditure definitions, some candidates have relied on them in raising nonfederal funds (specifically, excessive individual contributions) for recount purposes. The Commission should clarify that recount

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and election contest committees set up by federal candidates are now subject to the limitations in 2 U.S.C. § 441i(e)(1).

We appreciate the opportunity to comment on Advisory Opinion Request 2003-38.

Respectfully submitted,



**Lawrence Noble**  
**Executive Director**  
**Center for Responsive Politics**



**Paul Sanford**  
**General Counsel**  
**Center for Responsive Politics**