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August 17, 2004

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VIA FACSIMILE AND MAIL

Federal Election Commission
Commission Secretary
999 E Street, NW
Washington, DC 20463

Re: Comments to Draft Advisory Opinion 2004-26

Dear Commissioners:

We have received and reviewed Draft Advisory Opinion 2004-26 ("Draft") that was issued in response to this office's July 7, 2004, request on behalf of Congressman Jerry Weller and Ms. Zury Rios Sosa. The Draft explains that Ms. Rios Sosa may engage in volunteer activities on behalf of political committees associated with Congressman Weller, but her volunteer activities may not include participation in the decision-making of the political committees.

There is one aspect of the Draft that appears to be inconsistent with the Federal Election Campaign Act's express allowance for volunteer activities. Page 4 of the Draft permits Ms. Rios Sosa to "give speeches at Committee events if these speeches consist of personal statements. To ensure that her role is not misinterpreted by the audience, she should include a clear statement that she is not speaking *on behalf of any of the Committees.*" (Emphasis added). However, Ms. Rios Sosa's participation in political committee activities is predicated on the Act's volunteer exception which exempts "the value of services provided without compensation by any individual who volunteers *on behalf of* a candidate or political committee." 2 U.S.C. § 431(8)(B)(i) (emphasis added). By requiring her to renounce speaking "on behalf of" any political committee, the Draft would compel Ms. Rios Sosa to publicly disavow the statutory legal basis upon which she is relying to engage in political speech. To come within the volunteer exception of the Act, she must be volunteering "on behalf of" Congressman Weller's political committees. The Draft's proposed disclaimer is inconsistent with the Act and will only confuse the audience who hears it. The Commission should consider eliminating the proposed disclaimer.

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We trust that these comments about the Draft will assist the Commission in its deliberations.

Sincerely,



Jan Witold Baran

cc: Office of General Counsel