



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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**AGENDA ITEM**

March 28, 2006 For Meeting of: 03-29-06

**SUBMITTED LATE**

**MEMORANDUM**

**TO:** The Commission

**THROUGH:** Robert J. Costa *RC*  
Acting Staff Director

**FROM:** Lawrence H. Norton *LH*  
General Counsel

Rosemary C. Smith *RCS*  
Associate General Counsel

J. Duane Pugh *JDP*  
Senior Attorney

Daniel K. Abramson *DKA*  
Attorney

**Subject:** Draft AO 2006-04 Amendments

In response to communications from several Commissioners, the Office of General Counsel has prepared the following amendments to Draft Advisory Opinion 2006-04 (Tancredo).

Attachment

- 1 1. Insert a footnote on page 4, line 2, after the sentence ending "2 U.S.C.  
2 439a(a)(1)." The text of the footnote is as follows:
- 3 The proposed activity may also fall within other permitted uses of  
4 contributions enumerated by 2 U.S.C. 439a(a), including the use of  
5 contributions "for any other lawful purpose" under 2 U.S.C 439a(a)(6).
- 6 2. Strike the period at the end of the sentence on page 4, line 16, and replace it with  
7 a comma, and strike the words "The Commission also examines the relevant  
8 factors" from page 4, lines 16-17.
- 9 3. Strike the section heading on page 4, line 19.
- 10 4. Strike the paragraph on page 5, lines 10-18
- 11 5. Insert on page 5, line 21, after the word "request," the words "in the context of the  
12 overall relationship between TFC and DCN"
- 13 6. Strike the words "under 11 CFR 300.2(c)(2)(vii)." at the end of page 6, line 9 and  
14 replace with the words "that would result in TFC "financing" DCN for the  
15 purpose of 11 CFR 300.2(c)."
- 16 7. Strike the paragraph on page 6, lines 12-19 (including footnote 2) and replace  
17 with the following:

18 Alternative Two proposes a donation from TFC to DCN in an  
19 amount up to 25% of the total receipts of DCN at the time of the donation,  
20 which must be examined in the context of the overall relationship between  
21 TFC and DCN to determine whether this donation is a significant amount  
22 under 11 CFR 300.2(c)(2)(vii).

23 DCN was established on February 12, 2004 and has not been  
24 active on any issue other than advocating for the proposed ballot initiative.  
25 TFC seeks to donate a substantial amount of money to support DCN's sole  
26 mission of placing this initiative on the 2006 ballot and urging voters to  
27 support it. Through the fourth quarter of 2005 DCN received donations of  
28 \$9,285.40. DCN also received pledges for an additional \$45,500 but these  
29 funds have not yet been received as of the date of your request. TFC has  
30 indicated that it would like to donate up to \$50,000. This amount of

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money would represent substantial "seed money" for DCN and would result in DCN depending in large part on TFC for its initial existence.

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DCN will also share with TFC both its polling data and general "campaign strategy." Representative Tancredo also intends to use his own campaign funds to create and distribute advertisements to endorse the initiative. He supported an identical initiative in the past and is closely identified with this issue on a State-wide and national basis. Representative Tancredo will appear on the same ballot as the initiative and has made the issue of immigration reform a part of his reelection campaign.

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In the context of the overall relationship between TFC and DCN, the Commission concludes that the donation of 25% of DCN's total receipts by TFC is a significant amount of funds that would result in TFC "financing" DCN for the purpose of 11 CFR 300.2(c).

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8. Strike all text from page 7, line 15 through page 8, line 15

9. Strike "1982-36" from page 10, line 24.