



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

**TO: THE COMMISSION
STAFF DIRECTOR
GENERAL COUNSEL
FEC PRESS OFFICE
FEC PUBLIC DISCLOSURE**

FROM: OFFICE OF THE COMMISSION SECRETARY

DATE: February 28, 2007

**SUBJECT: COMMENT; DRAFT AO 2007-03
(Senator Barack Obama and the
Obama Exploratory Committee)**

Transmitted herewith is a timely submitted comment regarding the above-captioned matter from Ms. Patricia A. Fiori.

The proposed draft advisory opinion is being considered under an expedited process.

Attachment

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VIA FACSIMILE

Secretary of the Commission
Federal Election Commission
999 E Street, N.W.
Washington, DC 20436

To the Secretary of the Commission,

The following comments are submitted with regard to Draft Advisory Opinion 2007-03 which is on the Commission's agenda for its March 1, 2007 meeting. Based on the above information, here are some procedural questions that appear to require clarification:

The Draft states that general election contributions must be deposited and maintained in a separate account. Draft Advisory Opinion 2007-03 at pages 1 and 3. Presumably this would not affect the current practice followed by many committees to deposit excessive contributions in the presidential primary account and then seek re-designations to a general election account; as long as such funds are maintained separately after such redesignations. It would be useful to clarify the language of the Advisory Opinion to avoid any confusion in this regard.

The Draft states that a committee must refrain from using general election contributions deposited in a separate account and must refund all contributions in full if the candidate does not receive public funds. Draft Advisory Opinion 2007-03 at pages 1 and 3. Under these circumstances, the Commission should clarify how a committee would pay for bank fees (NSF and merchant fees) related to general election contributions, which, in some cases, may be automatically deducted by the bank.

For example, if a check deposited into the general election account is returned for insufficient funds, the account will be assessed a "NSF Fee." Another example would relate to online or paper credit card contributions. Both of these generate merchant fees that will be charged to the general election account.

The Draft would not permit the use of accrued interest to pay such fees, as such amounts must be disgorged to the U.S. Treasury. Draft Advisory Opinion 2007-03 at page 6. Moreover, merchant fees would most likely be greater than any accrued interest collected on such contributions. The Draft Advisory Opinion should specify how a committee may pay for such fees.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Fiori". The signature is written in a cursive, flowing style with some loops and flourishes.

Patricia A. Fiori