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March 13, 2009

Comment on
AOR 2009-04

The Honorable Steven Walther
Chairman
Federal Election Commission
attn: Thomasenia Duncan, Esq., General Counsel
999 E Street, N.W.
Washington, DC 20463

Re: AOR 2009-04

Dear Chairman Walther:

On behalf of my client, the Democratic Congressional Campaign Committee ("DCCC"), I write to comment on Advisory Opinion Request 2009-04, which was submitted on behalf of the Democratic Senatorial Campaign Committee and Al Franken for U.S. Senate. The Commission should approve the requestors' proposed conduct.

The six major national party committees have long played significant roles in federal recounts and contests. A federally contested election can acquire national significance that many federal elections do not. Moreover, such an election can raise issues of importance for future elections at all levels. Thus, it is critical that the parties be able effectively to engage in recount and contest activity.

There is no legal or policy basis to treat national parties differently than state parties or candidates when financing recount and contest activities under the Bipartisan Campaign Reform Act of 2002. For each type of committee, the pertinent legal restriction, as previously asserted by the Commission in Advisory Opinion 2006-24, is exactly the same. Each may raise and spend only federal funds for activities in connection with federal elections. See 2 U.S.C. § 441i(a) (2008) (national party committees); *id.* § 441i(e)(1)(A) (candidates); 11 C.F.R. § 102.5(a)(i) (2008) (state party committees).

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There is no other statute that would impose additional restrictions on national party committees for recount or contest purposes.

The Commission should simply apply Advisory Opinion 2006-24 to national party committee activity. If state parties and candidates may establish separate recount funds and finance them within federal limits and restrictions, while reporting their activities to the Commission, then so, too, may national party committees. There is simply nothing in the law or in Advisory Opinion 2006-24 to support a contrary result. To deny the DSCC's request would fail to appreciate the national parties' strong, demonstrated history of recount and contest activity.

For these reasons, we would ask the Commission to grant expeditiously the request in Advisory Opinion 2009-04. We would further request that the Commission grant relief from the deadline to submit written comments, so that it may fully consider our views. As always, we appreciate your attention to these matters.

Very truly yours,



Brian G. Svoboda
General Counsel
Democratic Congressional Campaign Committee