



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

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

FROM: OFFICE OF THE COMMISSION SECRETARY *JW*

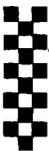
DATE: June 29, 2011

**SUBJECT: Comment on Draft AO 2011-12
Majority PAC and House Majority PAC**

Transmitted herewith is a timely submitted comment from Majority PAC and House Majority PAC by Marc E. Elias, Ezra W. Reese, and Jonathan S. Berkon regarding the above-captioned matter.

Draft Advisory Opinion 2011-12 is on the agenda for Thursday, June 30, 2011.

Attachment



FACSIMILE COVER SHEET

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CLIENT NUMBER: 73837-0001

RETURN TO: (NAME) Amoy B. Williams (EXT.) 1753 (ROOM No.) 7J

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RECIPIENT:	COMPANY:	TELEPHONE:	FACSIMILE:
Shawn Woodhead Werth, Commission Secretary	Federal Election Commission		(202) 208-3333

Re: Comments on Advisory Opinion 2011-12

2011 JUN 29 P 5:28

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June 29, 2011

BY FACSIMILE

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2011 JUN 29 P 5: 29
COMMUNICATIONS SECTION

Re: Advisory Opinion Request 2011-12

Dear Ms. Werth:

We are writing on behalf of Majority PAC and House Majority PAC (the "PACs") in response to Revised Draft A and Draft B of Advisory Opinions 2011-12.

In our initial request, we urged the Commission to clearly set forth the rules that govern the solicitation of contributions by Federal officeholders, Federal candidates, and national party officers ("covered officials") on behalf of the PACs, and the appearance of these covered officials at fundraising events where they do not solicit contributions. As we said in the request, "[u]ntil the Commission definitively resolves these questions, the PACs and covered officials will be left in a state of legal limbo." Advisory Opinion Request 2011-12.

Our request for clarity is even more urgent now, with the issuance of two drafts reaching opposing results. Unless the Commission provides a clear statement of the law, the entire election cycle could see uncertainty over a core provision of the Federal Election Campaign Act. Those taking an aggressive view would face the threat of enforcement, while those taking a more careful view would face competitive disadvantage. Such a scenario is untenable and would serve neither the statute nor the regulated community.

Therefore, we urge the Commission to provide a clear, unified response to our request. In our view, Revised Draft A appears to present a viable opportunity for consensus among the

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June 29, 2011

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Commissioners. This Draft correctly confirms that covered officials may solicit up to \$5,000 from federally permissible sources on behalf of the PACs.¹ This Draft also correctly confirms that covered officials may participate in fundraising events at which unlimited contributions from individuals, corporations, and labor organizations are raised, provided that they do not solicit such unlimited funds by complying with 11 C.F.R. § 300.64. A unanimous opinion that adopts these two conclusions would provide clear guidance to the regulated community and would alleviate the confusion that currently exists among both committees and covered officials.

A deadlock here would be the worst of all possible outcomes. We ask the Commission to craft a unified opinion that provides clear guidance to the regulated community on this important issue.

Very truly yours,



Marc E. Elias

Ezra W. Reese

Jonathan S. Berkon

Counsel for Majority PAC and House Majority PAC

cc: Christopher Hughey, Acting General Counsel

Fax: (202) 219-3923

¹ Though it did not state so explicitly, original Draft A also confirmed that section 441i permits covered officials to solicit up to \$5,000 – the limit prescribed by 2 U.S.C. 441a(a)(1)(C) for "any other political committee" – from Federally permissible sources on behalf of the PACs. See Draft AO, Agenda Document No. 11-37, at 5 ("Therefore, the contribution limit of 2 U.S.C. 441a(a)(1)(C) remains in force, as does the reference to that limit in section 441i."); 8, n. 6 ("However, recent cases have explained that the key distinction between 'hard money' and 'soft money' is the source and amount limitations of the Act.").