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May 10, 2012

MEMORANDUM

AGENDA ITEM

TO: The Commission

FROM: Anthony Herman *AH*
General Counsel

Kevin Deeley *KB*
Acting Associate General Counsel

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Assistant General Counsel

Theodore Lutz *TZ by AR*
Attorney

Subject: AO 2012-08 (Repledge) (Draft C)

For Meeting of 5-10-12

SUBMITTED LATE

Attached is a proposed draft of the subject advisory opinion. We have been asked to have this draft placed on the Open Session agenda for May 10, 2012.

Attachment

1 **ADVISORY OPINION 2012-08**

2 **Mr. Eric Zolt**
3 **546 South Rimpau Boulevard**
4 **Los Angeles, CA 90020**
5

DRAFT C

6 **Dear Mr. Zolt:**

7 **We are responding to your advisory opinion request on behalf of Repledge,**
8 **concerning the application of the Federal Election Campaign Act of 1971, as amended**
9 **(the “Act”), and Commission regulations to Repledge’s proposal. Repledge asks whether**
10 **(1) a pledge to make a contribution will be a contribution at the time of the pledge;**
11 **(2) Repledge will receive a contribution when it receives a fee for services rendered;**
12 **(3) Repledge will have the major purpose of influencing a Federal election (if the**
13 **Commission answers Questions 1 and 2 affirmatively); (4) a payment to Repledge will be**
14 **a contribution; (5) Repledge will make corporate contributions; (6) Repledge will**
15 **facilitate the making of contributions; (7) Repledge will act as a conduit or intermediary;**
16 **and (8) Repledge must file any reports with the Commission.**

17 ***Background***

18 **The facts presented in this advisory opinion are based on your letter received on**
19 **March 2, 2012, your comment submitted on April 20, 2012, your statements at the**
20 **Commission open meeting held on April 26, 2012, and information that you provided to**
21 **the Commission subsequent to the April 26 meeting.¹**

22 **Repledge is a corporation that was founded by Mr. Zolt and two of his colleagues**
23 **to enable individuals to remove equally pledged funds from political campaigns and**

¹ To the extent that representations in the comment and at the open meeting were inconsistent with the factual representations contained in the original request, the subsequent representations will govern for purposes of this advisory opinion.

1 redirect those funds to charitable purposes.² Repledge intends to establish a Web-based
2 platform that allows individuals to remove pledged funds in equal amounts from
3 opposing candidates for Federal office and to donate their funds, instead, to organizations
4 exempt from taxation under section 501(c)(3) of the Internal Revenue Code (“charities”).
5 Repledge’s Web-based platform will serve as “a virtual meeting place where supporters
6 of opposing Federal candidates can agree to refrain from making contributions to the
7 candidates’ principal campaign committees and instead direct their funds to charities.”
8 The platform will allow individuals who register with Repledge (“members”) to pledge
9 money to a Federal candidate and at the same time designate the charity that will receive
10 funds if the pledge is matched by supporters of the opposing candidate. Repledge also
11 represents that it “will be providing Federal committees with the very limited service of
12 providing a platform for sending contributions to Federal committees that are not diverted
13 to charities.” Repledge does not exercise any direction or control over any member’s
14 choice as to which candidate receives a pledge.

15 Repledge will provide its service through “Fund Drives.” Fund Drives will be
16 open to all members and will generally last from seven to 14 days. During a Fund Drive,
17 members will select their preferred candidate and charity. Members will make pledges
18 by entering their credit card information through a payment processor, such as PayPal or
19 WePay, and choosing the amount of their pledges. The payment processor will pre-
20 approve the amounts pledged for the remaining period of the Fund Drive, but the

² The founders of Repledge have not yet decided whether Repledge will operate as a for-profit or non-profit corporation.

1 amounts will not be charged to members' credit card accounts and the ultimate recipients
2 of the pledged amounts will not be determined until the end of the Fund Drive.

3 At the end of the Fund Drive, the payment processor will charge the members'
4 credit cards. Repledge will inform the payment processor how to allocate the funds
5 among the listed charities and the Federal candidate, based on the percentage of the funds
6 that were matched by supporters of the opposing candidate and the percentage of funds
7 that were unmatched. After deducting its processing fee, the payment processor will set
8 up unique accounts for all potential recipients (the listed charities, the Federal candidate,
9 and Repledge) and will notify the recipients that they may withdraw the funds from their
10 respective accounts. The funds transferred as political contributions or charitable
11 donations will not be deposited in, or pass through, any Repledge account, although the
12 payment processor will be acting as Repledge's agent. Repledge will disclose and inform
13 its members of all transaction and processing fees and the amounts distributed to the
14 respective charities and political committees.

15 Repledge states that it will charge a commercially reasonable percentage-based
16 transaction fee that will cover operating costs plus a reasonable profit. Repledge
17 currently estimates the fee at one percent of the amounts pledged. Repledge also states
18 that the recipients of funds will receive their funds after the processing costs of credit
19 card transactions have been deducted by the payment processor.

20 Members may not pledge funds in excess of any contribution limits applicable to
21 contributions from individuals to candidates for Federal office, and Repledge will inform
22 members of the contribution amount limits established by 2 U.S.C. 441a. Repledge will
23 require each member to provide the member's name, mailing address, name of employer,

1 and occupation, and Repledge will provide recipients of contributions with this
2 information.³ Finally, Repledge will require each member to confirm prior to donating
3 that he or she may lawfully make a contribution.⁴

4 ***Questions Presented***

5 1. *Would a monetary pledge from a member to a Federal political committee and*
6 *charity, which is pre-approved by a third-party payment processor, charged to a*
7 *member's credit card, and which eventually results in a contribution to a Federal*
8 *committee or a donation to charity (depending on whether the pledge is matched*
9 *by a supporter of an opposing candidate or party), constitute a "contribution"*
10 *under 2 U.S.C. 431(8) at the time of the pledge?*

11 a. *Would such a pledge constitute a "contribution" under 2 U.S.C. 431(8) at*
12 *the time the pledge is made through Repledge, subject to the 10-day*
13 *forwarding requirement established by 11 CFR 102.8(a)?*

³ The Repledge website will explain that:

Candidates and committees registered with the Federal Election Commission are required to use their best efforts to collect and report the name, address, employer and occupation of all individuals whose contributions to a federal committee exceed \$200 in an election cycle. We require you to enter this information so that we can provide it to those recipients of your contributions. This helps ensure that your contribution will be accepted.

⁴ Repledge will require each member to check a box on the website to confirm that the following statements are true and accurate:

1. I am a United States citizen or a lawfully admitted permanent resident of the United States.
2. This contribution is not made from the general treasury funds of a corporation, labor organization or national bank.
3. This contribution is not made from the treasury funds of an entity or person who is a federal contractor.
4. This contribution is not made from the funds of a political action committee.
5. This contribution is not made from the funds of an individual registered as a federal lobbyist or a foreign agent, or an entity that is a federally registered lobbying firm or foreign agent.
6. I am not a minor under the age of 16.
7. The funds I am donating are not being provided to me by another person or entity for the purpose of making this contribution.

1 8. *Would a Repledge member's contributions to Federal committees subject*
2 *Repledge to any reporting requirements of the Act or Commission regulations,*
3 *including but not limited to the "conduit and intermediary" reporting*
4 *requirements established by 11 CFR 110.6(c)?*

5 ***Legal Analysis and Conclusions***

6 1. *Would a monetary pledge from a member to a Federal political committee and*
7 *charity, which is pre-approved by a third-party payment processor, charged to a*
8 *member's credit card, and which eventually results in a contribution to a Federal*
9 *committee or a donation to charity (depending on whether the pledge is matched*
10 *by a supporter of an opposing candidate or party), constitute a "contribution"*
11 *under 2 U.S.C. 431(8) at the time of the pledge?*

12 a. *Would such a pledge constitute a "contribution" under 2 U.S.C. 431(8) at*
13 *the time the pledge is made through Repledge, subject to the 10-day*
14 *forwarding requirement established by 11 CFR 102.8(a)?*

15 b. *Would any portion of such a pledge that results in a donation to a charity*
16 *(because all or part of the pledge is matched by a supporter of an*
17 *opposing candidate or party) nevertheless constitute a "contribution" for*
18 *the purposes of the contribution limits established by 2 U.S.C. 441a(a)?*

19 No, a monetary pledge from a member to a Federal political committee and
20 charity as described in the request would not constitute a "contribution" under
21 2 U.S.C. 431(8) at the time of the pledge and would not be subject to the 10-day
22 forwarding requirement established by 11 CFR 102.8(a). Any portion of such a pledge

1 that results in a donation to a charity would not constitute a “contribution” for purposes
2 of the contribution limits established by 2 U.S.C. 441a(a).

3 Under the Act and Commission regulations, a “contribution” includes “any gift,
4 subscription, loan, advance, or deposit of money or anything of value made by any
5 person for the purpose of influencing any election for Federal office.”

6 2 U.S.C. 431(8)(A)(i); 11 CFR 100.52(a). “Anything of value” includes all in-kind
7 contributions, including the provision of goods or services without charge or at a charge
8 that is less than the usual and normal charge. 11 CFR 100.52(d)(1). The term “usual and
9 normal charge” means the price of goods in the market from which they ordinarily would
10 have been purchased at the time of the contribution, or the commercially reasonable rate
11 prevailing at the time that the services were rendered. *See* 11 CFR 100.52(d)(2); *see also*
12 11 CFR 100.51(a) (defining contribution as including “other things of value described in
13 this subpart”).

14 The Commission has previously distinguished between pledges and contributions.
15 In Advisory Opinion 2010-23 (CTIA – The Wireless Association), for example, the
16 Commission considered a proposal in which cell phone users would initiate contributions
17 to political committees by text message. The Commission stated that “a contribution
18 would be made at the time that a wireless subscriber pays a bill that includes a charge
19 resulting from a Code-initiated pledge to contribute – not at the time a pledge is made.”
20 *See also* Advisory Opinion 1990-14 (AT&T) (“When a person makes a 900 line phone
21 call, he or she has not yet made a contribution. The caller has merely pledged to make a
22 contribution[.]”).

1 Additionally, in Advisory Opinion 1985-29 (Breux), the Commission determined
2 that an unsecured promise in a promissory note to pay interest to a candidate committee
3 was not a contribution. “[A]ny actual payment of interest,” however, the Commission
4 found, would be a contribution. Advisory Opinion 1985-29 (Breux); *see also* Advisory
5 Opinion 1991-31 (Goss) (charitable donations made by an individual in the candidate’s
6 name “in lieu of contributions to the campaign” are not “something of value” to the
7 candidate and thus not contributions).

8 Similarly, here, a member will not provide “something of value” to a political
9 committee upon pledging funds to a Fund Drive. Repledge and its members may well
10 not know until the Fund Drive is over whether any of the pledged funds will result in a
11 political contribution. Indeed, if Repledge achieves its goals, all of the money pledged
12 during a Fund Drive will, after fees, be donated to charity.

13 The Commission’s conclusion that a pledge under Repledge’s proposal is not a
14 contribution is consistent with congressional intent and the history of the Act. Prior to
15 January 8, 1980, the Act stated that the term “contribution” included “a written contract,
16 promise, or agreement, whether or not legally enforceable.” 2 U.S.C. 431(e)(2) (1976);
17 *see also* 11 CFR 100.4(a)(3) (1977). In the 1979 amendments to the Act, however,
18 Congress removed that language from the definition of “contribution.” *See generally*
19 Amendments to Federal Election Campaign Act of 1971, Pub. L. No. 96-187,
20 93 Stat. 1339 (1979). In Advisory Opinion 1985-29 (Breux), the Commission explained
21 that “[t]he effect of such a repeal is that a mere promise to make a contribution is not by
22 itself subject to the Act as a contribution.”

1 Because a pledge under Repledge’s proposal does not constitute a contribution
2 under 2 U.S.C. 431(8), it is not subject to the requirement at 11 CFR 102.8 that
3 contributions received for an authorized committee be forwarded within ten days to the
4 treasurer of the authorized committee.⁵ For the same reason, any portion of a pledge that
5 results in a donation to charity does not count against the member’s contribution limits
6 under 2 U.S.C. 441a(a).

7 2. *Would Repledge’s receipt of a small percentage-based transaction fee constitute*
8 *the receipt of a “contribution” by Repledge under 2 U.S.C. 431(8)?*

9 No, Repledge’s receipt of a small percentage-based transaction fee will not
10 constitute the receipt of a contribution by Repledge under 2 U.S.C. 431(8).

11 As discussed in the response to Question 1, above, under the Act and Commission
12 regulations, a “contribution” includes “any gift, subscription, loan, advance, or deposit of
13 money or anything of value made by any person for the purpose of influencing any
14 election for Federal office.” 2 U.S.C. 431(8)(A)(i); 11 CFR 100.52(a).

15 The facts presented in the request indicate that Repledge will be organized and
16 operated primarily to provide services to its members and – through a third party payment
17 processor – for the limited purpose of processing payments to political committees. The
18 fees that Repledge proposes to charge its members in exchange for its services rendered
19 and are intended to be commercially reasonable, to cover its operating costs, and to
20 generate a reasonable profit. Repledge will charge the same fees regardless of whether
21 its members’ pledges ultimately result in contributions to a Federal candidate or

⁵ Repledge states that, once a Fund Drive is complete and its members’ contributions are made, it will forward contributors’ names, addresses, employers, and occupations to recipient political committees. This is consistent with the Act, Commission regulations, and prior advisory opinions. See 2 U.S.C. 432(b), (c); 11 CFR 102.8; Advisory Opinion 2010-23 (CTIA).

1 donations to charity. Moreover, Repledge does not propose to advocate the election or
2 defeat of any Federal candidate or support or oppose any political party. Nor is Repledge
3 owned or controlled by any Federal candidate.

4 The funds that Repledge proposes to charge its members for administration of its
5 Web-based platform are materially indistinguishable from the fees for services proposed
6 by the requestors in a number of recent advisory opinions. *See, e.g.,* Advisory Opinion
7 2011-19 (GivingSphere); Advisory Opinion 2011-06 (Democracy Engine). As in those
8 advisory opinions, the Commission does not consider the fees that Repledge proposes to
9 charge its members to be contributions to Repledge under 2 U.S.C. 431(8).⁶

10 3. *If a monetary pledge from a Repledge member to a Federal committee or*
11 *Repledge's receipt of a small percentage-based transaction fee would constitute a*
12 *"contribution" under 2 U.S.C. 431(8), is Repledge's "major purpose"*
13 *influencing Federal candidate elections such that it would be required to organize*
14 *and register as a "political committee" under 2 U.S.C. 431(4) and 433 when and*
15 *if it exceeded the \$1,000 contribution threshold established by 2 U.S.C. 431(4)?*

16 Because neither a monetary pledge from a Repledge member to a Federal
17 committee nor Repledge's receipt of a percentage-based transaction fee is a contribution,
18 this question is moot.

19 4. *Would payment of a small percentage-based transaction fee to Repledge*
20 *constitute a contribution to the recipient political committee?*

⁶ This answer is limited to the percentage-based transaction fee paid by members to Repledge itself. (Repledge states that it intends to deduct two separate fees from a member's contribution; one fee will go directly to Repledge and the other will go to the payment processor.) The request indicates that the "[t]ransaction costs associated with credit card transactions will be effectively borne by the final recipients of the funds."

1 No, the payment of a small percentage-based transaction fee to Repledge will not
2 constitute a contribution to the recipient political committee, because the fee will not
3 relieve recipient political committees of a financial obligation that they otherwise would
4 have had to pay themselves.

5 As discussed in the response to Question 1, above, “anything of value” includes
6 all in-kind contributions, including the provision of goods or services without charge or at
7 a charge that is less than the usual and normal charge. 11 CFR 100.52(d)(1). The term
8 “usual and normal charge” means the price of goods in the market from which they
9 ordinarily would have been purchased at the time of the contribution, or the commercially
10 reasonable rate prevailing at the time that the services were rendered. *See*
11 11 CFR 100.52(d)(2).

12 The Commission has recently reaffirmed the distinction between companies that
13 provide services to political committees and those that provide services to contributors.
14 *See* Advisory Opinion 2011-19 (GivingSphere); Advisory Opinion 2011-06 (Democracy
15 Engine); *see also* Advisory Opinion 2007-04 (Atlatl).

16 Like the requestors in Advisory Opinion 2011-19 (GivingSphere), and Advisory
17 Opinion 2011-06 (Democracy Engine), Repledge will provide its services “at the request
18 and for the benefit of [its members], not of the recipient political committees,” and thus
19 will not “relieve the recipient political committees of a financial burden that they would
20 otherwise have had to pay for themselves.” Advisory Opinion 2007-04 (Atlatl).
21 Repledge members will access its services through the Repledge website, and Repledge
22 does not propose to enter into contractual relationships with any of the recipient political
23 committees. Further, as part of its mission to redirect political contributions to charities,

1 Repledge will process donations to charity in addition to processing political
2 contributions. *See* Advisory Opinion 2007-04 (Atlatl). For its services, Repledge will
3 charge its members a fee set to cover costs and provide a profit. Under these facts,
4 Repledge's services will be provided primarily to its members, and the members' fees
5 will not relieve recipient political committees of a financial burden they would otherwise
6 have to pay.⁷

7 Accordingly, the payment of a small percentage-based transaction fee to Repledge
8 will not constitute a contribution to the recipient political committee.

9 *5. Would a Repledge member's contributions to political committees result in*
10 *impermissible corporate contributions from Repledge to those political*
11 *committees under 2 U.S.C. 441b?*

12 No, a Repledge member's contributions to political committees would not result
13 in impermissible corporate contributions from Repledge to those political committees
14 under 2 U.S.C. 441b.

15 As discussed in the answer to Question 4, above, there is a distinction under the
16 Act between companies that provide services to political committees and those that
17 provide services to contributors. *See* Advisory Opinion 2011-19 (GivingSphere);
18 Advisory Opinion 2011-06 (Democracy Engine); *see also* Advisory Opinion 2007-04
19 (Atlatl). Companies that process contributions to political committees as a service to the

⁷ This answer is limited to the percentage-based transaction fee paid by members to Repledge itself. The Requestor has made it clear that fees paid to the payment processor represent costs associated with the service of collecting and transferring funds to recipient political committees. Accordingly, payment of those fees would be contributions because they "would relieve recipient political committees of a financial obligation that political committees would otherwise have to pay for themselves, thereby providing something of value to these committees." Advisory Opinion 2007-04 (Atlatl). The fee paid to the processor must comply with the Act's source limitations and amount limitations, and must be reported as operating expenditures by the recipient political committees. *Id.*

1 political committees must be compensated for those services by the political committees
2 to avoid making in-kind contributions. Companies that process contributions as a service
3 to the contributors, however, do not need to be compensated for these services by the
4 recipient political committees because the companies are not providing any services or
5 anything of value to the recipient political committees. See Advisory Opinion 2011-19
6 (GivingSphere); Advisory Opinion 2011-06 (Democracy Engine); Advisory Opinion
7 2006-08 (Brooks); see also Advisory Opinion 2010-21 (ReCellular) (concluding that a
8 company is not required to charge a political committee for costs already paid by the
9 company's customers, as long as the company "does not provide any services without
10 charge, or at less than the usual and normal charge").

11 Because the Commission has determined that Repledge will provide the services
12 necessary to administer its Web-based platform at the request and for the benefit of its
13 members, and not recipient political committees, Repledge's proposal would not result in
14 impermissible contributions by Repledge to any political committee.

15 6. *Would a Repledge member's contributions to political committees cause*
16 *Repledge to violate the prohibition on a corporation "facilitating the making of*
17 *contributions to candidates or political committees" in 11 CFR 114.2(f)(1)?*

18 No, a Repledge member's contributions to political committees would not cause
19 Repledge to violate the prohibition on a corporation "facilitating the making of
20 contributions to candidates or political committees" at 11 CFR 114.2(f).

21 Commission regulations prohibit corporations and labor organizations "from
22 facilitating the making of contributions to candidates or political committees."

23 11 CFR 114.2(f)(1). Commission regulations define facilitation as "using corporate or

1 labor organization resources or facilities to engage in fundraising activities in connection
2 with any federal election.” 11 CFR 114.2(f)(1); *see also* Explanation and Justification for
3 Final Rules on Corporate and Labor Organization Activity; Express Advocacy and
4 Coordination with Candidates, 60 FR 64260, 64264 (Dec. 14, 1995) (facilitation means
5 using corporate or labor organization resources “to engage in fundraising for
6 candidates”); 11 CFR 114.2(f)(2) (facilitation includes providing food for a political
7 committee’s fundraiser absent advance payment at fair market value). Repledge’s Web-
8 based platform will allow members to pledge money to a Federal candidate and at the
9 same time designate the charity that will receive funds if the pledge is matched by
10 supporters of the opposing candidate. During a Fund Drive, when one member pledges
11 money to a Federal candidate, it results in reducing the overall amount of money flowing
12 to the opposing candidate. Although at the conclusion of a Fund Drive one candidate will
13 likely receive a contribution (unless there is perfect symmetry in pledges by supporters of
14 opposing candidates), Repledge’s stated goal is to divert contributions to candidates by
15 creating a mechanism that will assist supporters of opposing candidates in redirecting
16 each other’s contributions. In this way, Repledge will provide services at the request of
17 and primarily for the benefit of its members, not recipient political committees. So long
18 as it provides these services to its members in the ordinary course of business and at the
19 usual and normal charge, Repledge will not violate the prohibition on a corporation
20 facilitating the making of contributions under 11 CFR 114.2(f)(1).

21 Nonetheless, with rare exceptions, the most likely result of a Repledge Fund
22 Drive will be both contributions to candidates and donations to charity. Repledge denies
23 that it is acting as a fundraiser, but to the extent that its activities result in the making of a

1 contribution, it will be providing a service to the recipient political committee at that
2 time. Section 114.2(f)(1) of the Commission's regulations provides that firms that
3 provide goods or services as commercial vendors under 11 CFR part 116 do not facilitate
4 the making of contributions. With respect to the very limited service of transferring any
5 funds after a fund drive, Repledge will be acting as a commercial vendor under 11 CFR
6 part 116.

7 Accordingly, under the model described in your request, a Repledge member's
8 contributions to political committees would not cause Repledge to violate the prohibition
9 on a corporation facilitating the making of contributions under 11 CFR 114.2(f)(1).

10 7. *Would a Repledge member's contributions to Federal committees cause Repledge*
11 *to violate the prohibition on a corporation "acting as a conduit for contributions*
12 *earmarked to candidates" in 11 CFR 110.6(b)(2)(ii)?*

13 Yes, a Repledge member's contributions to Federal committees would result in
14 Repledge violating the prohibition on a corporation "acting as a conduit for contributions
15 earmarked to candidates" at 11 CFR 110.6(b)(2)(ii).

16 The Act and Commission regulations provide for the earmarking of contributions
17 "made by a person, either directly or indirectly, on behalf of a particular candidate." 2
18 U.S.C. 441a(a)(8); 11 CFR 110.6. An earmarked contribution is one with a "designation,
19 instruction, or encumbrance, whether direct or indirect, express or implied, oral or
20 written, which results in all or any part of the contribution . . . being made to . . . a clearly
21 identified candidate or a candidate's authorized committee." 11 CFR 110.6. "[A]ny
22 person who receives and forwards an earmarked contribution to a candidate or a
23 candidate's authorized committee" is a conduit or intermediary. 11 CFR 110.6(b)(2).

1 Any person prohibited from making contributions, such as a corporation, or expenditures
2 may not act as a conduit or intermediary. 11 CFR 110.6(b)(2)(ii).

3 The Commission has previously recognized that a key element of being a conduit
4 or intermediary is receiving and forwarding earmarked contributions to a candidate. *See*
5 Advisory Opinion 2006-30 (ActBlue) (a nonconnected committee is a conduit when it
6 “solicit[s] and receive[s]” earmarked contributions and subsequently transmits a check to
7 candidates “for the total amount of the earmarked contributions that it has received for
8 that candidate”); *see also* Advisory Opinion 2004-19 (DollarVote) (a corporation may not
9 generally “collect and forward earmarked contributions”). Although Repledge will not
10 take possession of any contributions itself, Repledge states that the payment processor
11 will be acting as Repledge’s agent when it collects and transfers funds to the recipient
12 political committees. Because Repledge is a corporation, it is not permitted to make
13 contributions. 2 U.S.C. 441b; 11 CFR 114.2(a). Repledge may not, therefore, act as a
14 conduit or intermediary for earmarked contributions. 11 CFR 110.6(b)(2)(ii). *But see*
15 Advisory Opinion 2006-30 (ActBlue) (“Nonconnected committees may solicit earmarked
16 contributions from the general public and then forward the contributions to a Federal
17 candidate.”).⁸

18 8. *Would a Repledge member’s contributions to Federal committees subject*
19 *Repledge to any reporting requirements of the Act or Commission regulations,*
20 *including but not limited to the “conduit and intermediary” reporting*
21 *requirements established by 11 CFR 110.6(c)?*

⁸ The Commission’s earmarking regulations do recognize a narrow exception for commercial fundraising firms that are retained by a candidate or a candidate’s authorized committee. 11 CFR 110.6(b)(2)(i)(D), Repledge does not qualify for the commercial fundraising exception, however, because it is not “retained by candidates to assist in raising funds for their campaigns.” Advisory Opinions 2004-19 (Dollar Vote).

