



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: The Commission

FROM: Commission Secretary's Office *SW*

DATE: February 8, 2013

SUBJECT: Extension Request for AO 2012-38
(Socialist Workers Party)

Attached is an extension request received from Michael Krinsky and Lindsey Frank, counsel for the Socialist Workers Party, Socialist Workers National Campaign Committee, and committees supporting candidates of the Socialist Workers Party.

Attachment

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February 8, 2013

By Email

**Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, DC 20463
secretary@fec.gov**

Re: Advisory Opinion Request 2012-38 - Socialist Workers Party, the Socialist Workers National Campaign Committee, and committees supporting candidates of the Socialist Workers Party

Dear Commissioners:

On behalf of our clients, the Socialist Workers Party, the Socialist Workers National Campaign Committee, and committees supporting candidates of the Socialist Workers Party (collectively, the "SWP"), we hereby respectfully request that the above-referenced advisory opinion request be re-scheduled until the Commission's meeting on April 25, 2013, or, in the alternative, the meeting on March 14, 2013, so as to allow our clients adequate time to: (1) respond to assertions, included in one or both of the two draft advisory opinions that we received yesterday at approximately six o'clock in the evening (the "Draft AOs"), that were based on information from outside of the record, such as Draft B's description of articles in *The Militant* on page 16; (2) address legal and factual arguments that have never been raised in previous AOs

concerning the SWP, such as whether the SWP could be used as a vehicle for the diversion of votes from other major-party contenders; (3) present additional affidavits and other proof to address issues raised by the Draft AOs; and (4) correct factual errors included in the Draft AOs.

Failure to reschedule this meeting would constitute a violation of the SWP's due process rights and the Administrative Procedure Act and will prejudice the SWP by precluding it from properly or adequately responding to these issues.

We also write to inform you that an attorney from our law firm and two or more members of the SWP will appear before the Commission as it considers the Draft AOs. We consider this appearance as a matter of right pursuant to the Commission's stated procedure, as the Drafts AOs were first made available to us yesterday, at approximately 6:00 PM, less than one week before the public meeting at which the advisory request is scheduled to be heard – February 14, 2013 at 10:00 AM.

Respectfully yours,



Michael Krinsky
Lindsey Frank

cc: Federal Election Commission
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