



Comment on AOR 2013-04

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To <secretary@fec.gov>  
cc  
bcc  
Subject Comments on Advisory Opinion Request 2013-4 (Democratic Governors Association and Jobs and Opportunity)

Ellen L. Weintraub, Chair  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463  
(800) 424-9530  
[secretary@fec.gov](mailto:secretary@fec.gov)

OFFICE OF FEDERAL  
COMMISSIONER  
2013 JUL -9 PM 2:16  
FEDERAL ELECTION  
COMMISSION

Re: Comments on Advisory Opinion Request 2013-4 (Democratic Governors Association and Jobs and Opportunity)

Dear Chair,

Reject a request by the Democratic Governors Association (DGA) for permission to fund federal election activity with money raised outside federal contribution limits (i.e., "soft money"), which would clearly violate the McCain-Feingold Law soft money ban.

Under the soft money ban, state party committees, as well as any "association or similar group of candidates for State or local office or of individuals holding State or local office" must use funds raised under federal contribution limits to pay for federal election activity—defined in the law to include voter registration, get-out-the-vote ("GOTV") activities, voter identification and ads that promote, attack, support or oppose federal candidates. The DGA along with Jobs and Opportunity (J&O), an organization under the full control of the DGA, submitted Advisory Opinion Request (AOR) 2013-4 to the FEC asking if they could pay for federal election activity with unlimited soft money.

DGA is an association of state officeholders, so paying for the proposed activities with nonfederal funds would clearly violate the plain language of the statute. The Commission is reminded that the U.S. District Court for the District of Columbia held in *Shays v. FEC* that the Commission lacks the authority to create exemptions from the federal election activity soft money restrictions for associations of state candidates and officeholders. Further the U.S. Supreme Court upheld the soft money ban in *McConnell v. FEC*.

The Advisory Opinion Request from the Democratic Governors Association is an "Alice in Wonderland," attempt to get the FEC to say "up" means "down."

Congress could have not been clearer that expenditures on "federal election activity" by an association of "individuals holding State or local office" must be made from contributions that comply with federal contribution limits. And it could not be any clearer that the statutory language covers the Democratic Governors Association, which under any normal person's interpretation is an association "of individuals holding state or local office."

Thank you for the opportunity to bring these remarks to your attention.

Yours sincerely,  
Robert E. Rutkowski

cc: House Minority Leadership

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Re: Comments filed by the Campaign Legal Center and Democracy 21:

[http://www.democracy21.org/wp-content/uploads/2013/07/CLC\\_D21-Comments-on-AOR-2013-4-DGA-7-8-13.pdf](http://www.democracy21.org/wp-content/uploads/2013/07/CLC_D21-Comments-on-AOR-2013-4-DGA-7-8-13.pdf)