



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 3, 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2014-01

Mr. Paul Stichick
Treasurer
Solano County United Democratic Central Committee
P.O. Box 2140
Fairfield, CA 94533

Dear Mr. Stichick:

We are responding to your advisory opinion request on behalf of the Solano County United Democratic Central Committee (the "Requestor") concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the Requestor's proposed use of funds in a dormant bank account established by the Requestor's predecessor political committee, the Solano County Democratic Central Committee ("SCDCC"). Based upon the information provided in the Advisory Opinion Request and supplemental filings, the Commission concludes that the Requestor may transfer funds from the SCDCC's dormant account to the Requestor's federal account and spend such funds on federal election activity provided it makes best efforts to disclose the source of the cash on hand balance.

Background

The facts presented in this advisory opinion are based on your letter received on January 13, 2014, supplemental information provided to the Commission on March 3, 2014, and March 28, 2014, and reports filed with the Commission.

In August 2004, the SCDCC established a federal and a non-federal bank account. The SCDCC's treasurer registered the SCDCC with the Commission as a political party committee¹ in September 2004 and filed two regular reports with the Commission in October 2004. The treasurer subsequently failed to file any reports for the SCDCC in 2004 or 2005. The Commission issued nine separate notifications to the SCDCC regarding its failure to file during

¹ FEC committee number C00406108.

this time, but the treasurer did not respond to these notifications. The Commission therefore administratively terminated the committee on September 20, 2005.² Between 2004 and 2008 the treasurer reported monthly to the SCDCC's members and officers that the SCDCC was fully in compliance with law.³ Once the SCDCC's chairman discovered in 2008 that the committee had been terminated, the chairman took steps to notify the committee membership and the SCDCC stopped using the account, which held only \$11,654.77 as of October 2008.

In 2008, the SCDCC's chairman discovered that the Commission had administratively terminated the SCDCC in 2005. The chairman then "isolated" the committee's federal account, suspended its further use, and registered a new committee with the Commission. The new committee is the Requestor here.⁴ The Requestor retained a financial management agency to manage its funds and reporting obligations.

The Requestor states that the SCDCC's federal account remained isolated and unused, becoming "nearly forgotten," between October 2008 and June 2012. In 2012, the Requestor elected a new treasurer, who re-discovered the SCDCC's federal account and learned that it held a balance of \$11,654.77 as of October 2008. The Requestor has located bank records associated with the account. These records include the name and address of contributors and the date and amount of contributions received between 2005-2008.

Question Presented

May the Requestor spend the funds that are in the SCDCC's dormant federal account?

Legal Analysis and Conclusion

Yes, under the circumstances and material facts set forth in the Advisory Opinion Request and supplemental filings as summarized above, the Requestor may deposit the funds from the SCDCC's dormant federal account into the Requestor's federal account and use those funds to finance federal election activity, provided it makes best efforts to disclose the source of the cash on hand balance.

The Act and Commission regulations generally provide that state, district, and local party committees may finance federal election activity only with funds that are subject to the limitations, prohibitions, and reporting requirements of the Act. *See* 2 U.S.C. § 441i(b)(1); *see generally* 11 C.F.R. §§ 300.30-36. A political committee's treasurer is "responsible for examining all contributions received for evidence of illegality" and must maintain records and accounts of the contributions for three years after filing the report to which the records and accounts relate. 11 C.F.R. §§ 102.9(c), 103.3; *see also* 2 U.S.C. § 432(d). Where a committee

² The SCDCC's reports and notices can be obtained by entering committee number C00406108 into the Commission's committee viewer at <http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do>.

³ The treasurer later admitted to facing "overwhelming personal issues during the period [from] 2004-2008 that caused distraction from his duties."

⁴ FEC committee number C00455865.

seeks to spend funds for which the three-year recordkeeping period has expired, a treasurer “need only make his or her best efforts to disclose the source of the cash-on-hand balance.” *See* Advisory Opinion 1981-01 (Bay Area Committee) at 3.

Under the circumstances presented here, the Requestor may deposit the funds from the SCDCC’s dormant federal account into the Requestor’s federal account and use those funds to finance federal election activity provided it make best efforts to disclose the source of its cash on hand balance. The SCDCC’s federal account has not been used since 2008, placing it well outside of the Commission’s three-year record retention requirement. The Requestor does, however, have bank records for the dormant federal account which provide at least the name and address of contributors and the date and amount of accompanying contributions. As noted, where a committee seeks to spend funds for which the three-year recordkeeping period has expired, the treasurer must make his or her best efforts to disclose the source of the cash on hand balance. *See* 11 C.F.R. § 102.9(c), (d).

The best efforts requirement stated above may be satisfied in this case by attributing the remaining cash on hand balance to contributors listed on the committee’s bank records through a reasonable accounting method that employs generally accepted accounting principles. *See* Advisory Opinion 2007-26 (Schock) at 3 (noting that in prior advisory opinions “the Commission stated that the method described in 11 CFR 110.3(c)(4), which is known as the ‘last in, first transferred’ method is a reasonable accounting method. . . . This does not preclude [the Requestor] from using a different reasonable accounting method that employs generally accepted accounting principles when identifying remaining donations in its campaign account and determining what funds are Federally permissible.”); *see also* 11 C.F.R. §§ 110.3(c)(4), 104.12. The Requestor must review all contributor information available for any potential excessive contributions or prohibited sources, making at least one written or oral request for evidence of the contribution’s legality if it cannot be determined on its face.

Commission regulations permit transfers of funds between party committees of the same party outside of the contribution limits set forth at 2 U.S.C. § 441a. 11 C.F.R. § 110.3(c)(1). Commission regulations further provide that committees are affiliated for purposes of the Act’s contribution limits if they are “established, financed, maintained, or controlled” by the same person or group of persons. 11 C.F.R. § 100.5(g)(2). The Requestor is a successor committee to SCDCC; they both appear to be committees of the same party that were and are “established, financed, maintained, or controlled” by the same person or persons, *i.e.*, the Solano County Democratic Party. Thus, upon completing the best efforts described above, the Requestor may receive only those funds which it has determined not to be excessive contributions or contributions from prohibited sources into its current federal account. Any such receipt should be reported as a transfer from an affiliated committee on Line 12 of the Requestor’s Schedule A (FEC Form 3X), and the Requestor should also disclose SCDCC as an affiliated committee on Line 6 of its Statement of Organization (FEC Form 1). In the circumstances here, where the original contributors should have been listed on the SCDCC’s original reports but were not due to the committee’s failure to file required reports, the Requestor should list the original contributors as determined above as memo entries to the itemized transfer disclosed on Schedule A. *See* Attachment A.

The Commission expresses no view as to whether the Requestor may transfer SCDCC's funds to the Requestor's nonfederal account and/or spend these funds on nonfederal activity, which are questions of state and local law outside of the Commission's jurisdiction.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 2 U.S.C. § 437f. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the Requestor may not rely on that conclusion as support for its proposed activity. Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which this advisory opinion is rendered may rely on this advisory opinion. *See* 2 U.S.C. § 437f(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be affected by subsequent developments in the law, including, but not limited to, statutes, regulations, advisory opinions, and case law. Any advisory opinions cited herein are available on the Commission's website.

On behalf of the Commission,

(signed)
Lee E. Goodman
Chairman

Attachment

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: PAGE 6 OF 8
(check only one)
 11a 11b 11c 12
 13 14 15 16 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
SOLANO COUNTY UNITED DEMOCRATIC CENTRAL COMMITTEE

A. SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC
 Full Name (Last, First, Middle Initial)
 Mailing Address 2790 VISTA GRANDE
 City State Zip Code
 FAIRFIELD CA 94534
 FEC ID number of contributing federal political committee. **C** C00406108
 Name of Employer Occupation
 Receipt For:
 Primary General
 Other (specify) ▼
 Aggregate Year-to-Date ▼
 10808.81

Date of Receipt
 M M M / D D D / Y Y Y Y Y Y
 01 / 01 / 2014
Transaction ID : SA12.4098
 Amount of Each Receipt this Period
 10808.81
 Transfer

B. Mary Cruz
 Full Name (Last, First, Middle Initial)
 Mailing Address 11 Vista Montana Drive
 City State Zip Code
 Fairfield CA 94534
 FEC ID number of contributing federal political committee. **C**
 Name of Employer Occupation
 Self Radiologist
 Receipt For:
 Primary General
 Other (specify) ▼
 Aggregate Year-to-Date ▼
 3000.00

Date of Receipt
 M M M / D D D / Y Y Y Y Y Y
 01 / 01 / 2014
Transaction ID : SA12.4098.0
 Amount of Each Receipt this Period
 3000.00
****SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC**
[MEMO ITEM]

C. John Jones
 Full Name (Last, First, Middle Initial)
 Mailing Address 12 Main Street
 City State Zip Code
 Vacaville CA
 FEC ID number of contributing federal political committee. **C**
 Name of Employer Occupation
 Self Attorney
 Receipt For:
 Primary General
 Other (specify) ▼
 Aggregate Year-to-Date ▼
 4000.00

Date of Receipt
 M M M / D D D / Y Y Y Y Y Y
 01 / 01 / 2014
Transaction ID : SA12.4098.1
 Amount of Each Receipt this Period
 4000.00
****SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC**
[MEMO ITEM]

SUBTOTAL of Receipts This Page (optional).....▶ 10808.81
TOTAL This Period (last page this line number only).....▶

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

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| Use separate schedule(s) for each category of the Detailed Summary Page | | FOR LINE NUMBER: (check only one) | PAGE 7 OF 8 |
| <input type="checkbox"/> 11a | <input type="checkbox"/> 11b | <input type="checkbox"/> 11c | <input checked="" type="checkbox"/> 12 |
| <input type="checkbox"/> 13 | <input type="checkbox"/> 14 | <input type="checkbox"/> 15 | <input type="checkbox"/> 16 <input type="checkbox"/> 17 |

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NAME OF COMMITTEE (In Full)
SOLANO COUNTY UNITED DEMOCRATIC CENTRAL COMMITTEE

| | | |
|---|-------------------------------------|---|
| Full Name (Last, First, Middle Initial) A. David Smith | | Date of Receipt M M / D D / Y Y Y Y Y Y 01 / 01 / 2014 Transaction ID : SA12.4098.2 |
| Mailing Address 4 West Third St. | | Amount of Each Receipt this Period 3195.00 |
| City Fairfield | State CA | Zip Code 94534 |
| FEC ID number of contributing federal political committee. C | | **SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC |
| Name of Employer | Occupation Retired | [MEMO ITEM] |
| Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼ | Aggregate Year-to-Date ▼ 3195.00 | |

| | | |
|---|-----------------------------------|---|
| Full Name (Last, First, Middle Initial) B. Paul Johnson | | Date of Receipt M M / D D / Y Y Y Y Y Y 01 / 01 / 2014 Transaction ID : SA12.4098.3 |
| Mailing Address 104 Rockville Road | | Amount of Each Receipt this Period 58.81 |
| City Fairfield | State CA | Zip Code 94534 |
| FEC ID number of contributing federal political committee. C | | **SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC |
| Name of Employer | Occupation Student | [MEMO ITEM] |
| Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼ | Aggregate Year-to-Date ▼ 58.81 | |

| | | |
|---|------------------------------------|---|
| Full Name (Last, First, Middle Initial) c. Albert Lang | | Date of Receipt M M / D D / Y Y Y Y Y Y 01 / 01 / 2014 Transaction ID : SA12.4098.4 |
| Mailing Address 22 Bank Street | | Amount of Each Receipt this Period 200.00 |
| City Fairfield | State CA | Zip Code 94534 |
| FEC ID number of contributing federal political committee. C | | **SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC |
| Name of Employer Community Hospital | Occupation ER Nurse | [MEMO ITEM] |
| Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼ | Aggregate Year-to-Date ▼ 200.00 | |

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| SUBTOTAL of Receipts This Page (optional).....▶ | 0.00 |
| TOTAL This Period (last page this line number only).....▶ | |

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

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| Use separate schedule(s) for each category of the Detailed Summary Page | | FOR LINE NUMBER: (check only one) | PAGE 8 OF 8 |
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NAME OF COMMITTEE (In Full)
SOLANO COUNTY UNITED DEMOCRATIC CENTRAL COMMITTEE

A. Martha Miller
Full Name (Last, First, Middle Initial)
Mailing Address 46 Quincy Street
City Fairfield State CA Zip Code 94534
FEC ID number of contributing federal political committee. **C**
Name of Employer Self Occupation Doctor
Receipt For: Primary General Other (specify) ▼
Aggregate Year-to-Date ▼ 75.00

Date of Receipt
M M / D D / Y Y Y Y Y Y
01 / 01 / 2014
Transaction ID : SA12.4098.5
Amount of Each Receipt this Period 75.00
**SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC
[MEMO ITEM]

B. Bob Ryan
Full Name (Last, First, Middle Initial)
Mailing Address 84 Van Buren Street
City Fairfield State CA Zip Code 94534
FEC ID number of contributing federal political committee. **C**
Name of Employer Bob's Organic Produce Occupation Farmer
Receipt For: Primary General Other (specify) ▼
Aggregate Year-to-Date ▼ 130.00

Date of Receipt
M M / D D / Y Y Y Y Y Y
01 / 01 / 2014
Transaction ID : SA12.4098.6
Amount of Each Receipt this Period 130.00
**SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC
[MEMO ITEM]

C. Jessica Jones
Full Name (Last, First, Middle Initial)
Mailing Address 17 Oxford Street
City Fairfield State CA Zip Code 94534
FEC ID number of contributing federal political committee. **C**
Name of Employer Western Electronics Occupation Engineer
Receipt For: Primary General Other (specify) ▼
Aggregate Year-to-Date ▼ 150.00

Date of Receipt
M M / D D / Y Y Y Y Y Y
01 / 01 / 2014
Transaction ID : SA12.4098.7
Amount of Each Receipt this Period 150.00
**SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC
[MEMO ITEM]

| | |
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| SUBTOTAL of Receipts This Page (optional).....▶ | 0.00 |
| TOTAL This Period (last page this line number only).....▶ | 10808.81 |