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FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA DOCUMENT NO. 14-11-A
AGENDA ITEM
For meeting of April 3, 2014

March 27, 2014

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS by AN*
Deputy General Counsel

Adav Noti *AN*
Acting Associate General Counsel

Robert M. Knop *RMK*
Assistant General Counsel

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Kevin Paulsen *KP*
Extern

Subject: AO 2014-01 (Solano County Democratic Central Committee)
Draft B

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12:00 pm (Eastern Time) on April 2, 2014.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <http://www.fec.gov/law/draftaos.shtml>.

1 ADVISORY OPINION 2014-01

2
3 Mr. Paul Stichick
4 Treasurer
5 Solano County United Democratic Central Committee
6 P.O. Box 2140
7 Fairfield, CA 94533

DRAFT B

8
9 Dear Mr. Stichick:

10
11 We are responding to your advisory opinion request on behalf of the Solano County
12 United Democratic Central Committee (the “Requestor”) concerning the application of the
13 Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations to
14 the Requestor’s proposed use of funds in a dormant bank account established by the Requestor’s
15 predecessor political committee, the Solano County Democratic Central Committee (“SCDCC”).
16 The Commission concludes that the Requestor may transfer funds from the SCDCC’s dormant
17 account to the Requestor’s federal account and spend such funds on federal election activity
18 provided it makes best efforts to disclose the source of the cash on hand balance.

19 ***Background***

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

23 In August 2004, the SCDCC established a federal and a non-federal bank account. The
24 SCDCC’s treasurer registered the SCDCC with the Commission as a political party committee¹
25 in September 2004 and filed two regular reports with the Commission in October 2004. The
26 treasurer subsequently failed to file any reports for the SCDCC in 2004 or 2005. The
27 Commission issued nine separate notifications to the SCDCC regarding its failure to file during
28 this time, but the treasurer did not respond to these notifications. The Commission therefore

¹ FEC committee number C00406108.

1 administratively terminated the committee on September 20, 2005.² The request indicates that
2 the treasurer reported monthly to the SCDCC's members and officers that the SCDCC was fully
3 in compliance with law from 2004 to 2008.³

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

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

16 ***Question Presented***

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

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.

1 ***Legal Analysis and Conclusion***

2 Yes, the Requestor may deposit the funds from the SCDCC's dormant federal account
3 into the Requestor's federal account and use those funds to finance federal election activity,
4 provided it makes best efforts to disclose the source of the cash on hand balance.

5 The Act and Commission regulations generally provide that state, district, and local party
6 committees may finance federal election activity only with funds that are subject to the
7 limitations, prohibitions, and reporting requirements of the Act. *See* 2 U.S.C. § 441i(b)(1); *see*
8 *generally* 11 C.F.R. §§ 300.30-.36. A political committee's treasurer is "responsible for
9 examining all contributions received for evidence of illegality" and must maintain records and
10 accounts of the contributions for three years after filing the report to which the records and
11 accounts relate. 11 C.F.R. §§ 102.9(c), 103.3; *see also* 2 U.S.C. § 432(d). Where a committee
12 seeks to spend funds for which the three-year recordkeeping period has expired, a treasurer
13 "need only make his or her best efforts to disclose the source of the cash-on-hand balance." *See*
14 *Advisory Opinion 1981-01 (Bay Area Committee)* at 3.

15 The SCDCC's federal account has not been used since 2008 placing it well outside of the
16 Commission's three-year record retention requirement. The Requestor does, however, have bank
17 records for the dormant federal account which provide at least the name and address of
18 contributors and the date and amount of accompanying contributions. As noted, where a
19 committee seeks to spend funds for which the three-year recordkeeping period has expired, the
20 treasurer must make his or her best efforts to disclose the source of the cash on hand balance.
21 *See* 11 C.F.R. § 102.9(c) and (d). Among other ways, the best efforts requirement stated above
22 may be satisfied by attributing the remaining cash on hand balance to contributors listed on the
23 committee's bank records through a reasonable accounting method (*e.g.*, first in, first out),

1 reviewing that contributor information for any potential excessive contributions or prohibited
2 sources, and making at least one written or oral request for evidence of the contribution's legality
3 if it cannot be determined on its face.

4 Commission regulations permit transfers of funds between party committees of the same
5 party outside of the contribution limits set forth at 2 U.S.C. § 441a. 11 C.F.R. § 110.3(c)(1).
6 Commission regulations further provide that committees are affiliated for purposes of the Act's
7 contribution limits if they are "established, financed, maintained, or controlled" by the same
8 person or group of persons. 11 C.F.R. §100.5(g)(2). The Requestor is a successor committee to
9 SCDCC; they both appear to be committees of the same party that were and are "established,
10 financed, maintained, or controlled" by the same person or persons, *i.e.*, the Solano County
11 Democratic Party. Thus, upon completing the best efforts described above, the Requestor may
12 receive any funds which it has determined not to be excessive contributions or contributions
13 from prohibited sources into its current federal account. Any such receipt should be reported as
14 a transfer from an affiliated committee on Line 12 of the Requestor's Schedule A (FEC Form
15 3X), and the Requestor should also disclose SCDCC as an affiliated committee on Line 6 of their
16 Statement of Organization (FEC Form 1). In the unique circumstances here, where the original
17 contributors should have been listed on the SCDCC's original reports but were not due to the
18 committee's failure to file required reports, the Requestor should list the original contributors as
19 determined above as memo entries to the itemized transfer disclosed on Schedule A. *See*
20 Attachment A.

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

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 MM / DD / YYYY 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 MM / DD / YYYY 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 MM / DD / YYYY 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	

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

SCHEDULE A (FEC Form 3X)

ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)	PAGE 8 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. Martha Miller		Date of Receipt M M M / D D D / Y Y Y Y Y Y 01 / 01 / 2014
Mailing Address 46 Quincy Street		Transaction ID : SA12.4098.5
City Fairfield	State CA	Zip Code 94534
FEC ID number of contributing federal political committee. C	Amount of Each Receipt this Period 75.00	
Name of Employer Self	Occupation Doctor	**SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC [MEMO ITEM]
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼	Aggregate Year-to-Date ▼ 75.00	

Full Name (Last, First, Middle Initial) B. Bob Ryan		Date of Receipt M M M / D D D / Y Y Y Y Y Y 01 / 01 / 2014
Mailing Address 84 Van Buren Street		Transaction ID : SA12.4098.6
City Fairfield	State CA	Zip Code 94534
FEC ID number of contributing federal political committee. C	Amount of Each Receipt this Period 130.00	
Name of Employer Bob's Organic Produce	Occupation Farmer	**SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC [MEMO ITEM]
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼	Aggregate Year-to-Date ▼ 130.00	

Full Name (Last, First, Middle Initial) C. Jessica Jones		Date of Receipt M M M / D D D / Y Y Y Y Y Y 01 / 01 / 2014
Mailing Address 17 Oxford Street		Transaction ID : SA12.4098.7
City Fairfield	State CA	Zip Code 94534
FEC ID number of contributing federal political committee. C	Amount of Each Receipt this Period 150.00	
Name of Employer Western Electronics	Occupation Engineer	**SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC [MEMO ITEM]
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼	Aggregate Year-to-Date ▼ 150.00	

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