



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 1, 2015

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2015-07

Marc E. Elias, Esq.  
Perkins Coie LLP  
700 13th Street, NW  
Suite 600  
Washington, DC 20005-3960

Dear Mr. Elias:

We are responding to your advisory opinion request on behalf of Hillary for America (the “Committee”) concerning the application of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-46 (the “Act”), and Commission regulations to payments for food, beverages, and valet parking at campaign events. The Committee asks whether attendees at the Committee’s campaign events may pay for their own food, beverages, and valet parking without making in-kind contributions to the Committee. The Commission concludes that attendees at the Committee’s campaign events may pay for their own food, beverages, and valet parking as described in the request without making in-kind contributions to the Committee.

### ***Background***

The facts presented in this advisory opinion are based on your letter received on August 7, 2015 (the “AOR”), and public disclosure reports filed with the Commission.

The Committee is the principal campaign committee for presidential candidate Hillary Clinton. The Committee plans to organize campaign events during the 2016 election cycle in restaurants, hotels, and similar event spaces. For some of these events, the Committee does not plan to make food or beverages available to attendees and will not mention food or beverages in the invitations to the events nor imply that a meal is part of these events. The Committee anticipates that attendees at such events may nonetheless wish to purchase food and beverages for themselves directly from the venue. Attendees would not be required to purchase any food or beverages at the event, and there would not be “any monetary consequences” for the Committee as a result of attendees’ decision to purchase or not purchase food or beverages during the event.

In addition, the Committee intends to hold some campaign events at venues that do not provide valet parking in the normal course of business, such as private homes, museums, or office facilities. For such events the Committee does not intend to provide valet parking and would not request that a host make valet parking available, but the Committee anticipates that valet parking services would be available to attendees at the event venue and that individual attendees who wish to use the valet service would pay a per-car fee and any accompanying tip.

### ***Question Presented***

*May attendees at Committee campaign events pay for their own food and beverages and valet parking without such payments being treated as in-kind contributions to the Committee?*

### ***Legal Analysis and Conclusion***

Yes, attendees at Committee campaign events may pay for their own food and beverages and valet parking as described in the request without such payments being treated as in-kind contributions to the Committee.

The Act and Commission regulations define a contribution as including “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a). “Anything of value” includes all in-kind contributions, *see* 11 C.F.R. § 100.52(d)(1), as well as “[t]he entire amount paid to attend a fundraiser or other political event,” *id.* § 100.53.

### ***Food and Beverages***

Payment of food and beverage expenses for a committee’s campaign event by anyone other than the committee generally constitutes an in-kind contribution. Advisory Opinion 1980-63 (Wirth); Advisory Opinion 1980-89 (Coelho).<sup>1</sup> Thus, if a committee provides food and beverages to attendees at a campaign event, and an attendee reimburses or otherwise defrays the committee’s expenses for such food and beverages, that reimbursement would constitute an in-kind contribution because it would relieve the committee of an expense that it would otherwise incur. *See* Advisory Opinion 2007-22 (Hurysz) at 6 (“The provision of . . . materials without charge would relieve your campaign of the expense that it would otherwise incur to obtain such materials. Thus, the provision of such items without charge would constitute a contribution . . . .”). And if a committee includes the cost of the food or beverages in the charge that donors must pay to attend the event, an attendee’s payment of that charge constitutes a contribution as a payment “to attend a fundraiser” under 11 C.F.R. § 100.53. Amendments to Federal Election Campaign Act of 1971, 45 Fed. Reg. 15,080, 15,081 (Mar. 7, 1980) (regarding former 11 C.F.R. § 100.7(a)(2), later recodified in section 100.53).

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<sup>1</sup> The Act and Commission regulations provide an exception for the cost of invitations, food, and beverages provided by an individual to a candidate committee “on the individual’s residential premises.” 52 U.S.C. § 30101(8)(B)(ii); 11 C.F.R. § 100.77. This exception is not applicable here, as the request describes events that will take place “in restaurants, hotels, or similar event spaces,” rather than residential premises, with respect to the issue of food and beverage costs.

Here, however, the Committee does not plan to provide food or beverages for any attendees at the relevant events. Thus, the attendees' payments to attend the event would not include food or drink expenses, nor would the attendees' purchase of their own food or beverages at a campaign event relieve the Committee of any expenses it would otherwise incur. Such purchases therefore would not constitute in-kind contributions to the Committee.

This conclusion relies on the Committee's representation that there will "not be any monetary consequences" to the Committee related to whether attendees choose to purchase food or beverages at the events. *See* AOR at AOR001-002. The Commission understands this representation to mean that attendees' purchasing or not purchasing food or beverages at an event will not in any way affect the Committee's costs for the event. For example, the event venue will not offer the Committee any discounts based on attendees' actual or anticipated purchases, and the Committee will not be obligated to pay a minimum charge for food and beverages if attendees do not purchase enough. Assuming that attendees' purchases do not factor into the pricing of these or other charges to the Committee, the purchases by attendees of their own food or beverages would not constitute in-kind contributions for the reasons stated above.

#### *Valet Parking*

The Committee represents that it "does not plan to request the provision of [valet parking] services, or otherwise make valet parking available" at the events under consideration. AOR004. As explained above, because the Committee will not be providing valet parking services to any attendees at these events, the attendees' payments for their own valet parking will not relieve the Committee of expenses it would otherwise incur, and those payments therefore will not be in-kind contributions.

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* 52 U.S.C. § 30108. 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 id.* § 30108(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,



Ann M. Ravel  
Chair