



FEDERAL ELECTION COMMISSION  
Washington, DC

**MEMORANDUM**

**TO:** The Commission

**FROM:** Office of the Commission Secretary <sup>VFW</sup>

**DATE:** October 9, 2024

**SUBJECT:** AOR 2024-13 (DSCC Montanans for Tester and Gallego for Arizona) 3rd Comment from NRSC

Attached are comments on AOR 2024-13 (DSCC Montanans for Tester and Gallego for Arizona) from NRSC.

This matter is on the October 10, 2024 Open meeting.

**Attachment**

**RECEIVED**

By Office of the Commission Secretary at 5:33 pm, Oct 09, 2024

**RECEIVED**

By Office of General Counsel at 5:03 pm, Oct 09, 2024



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Senator Steve Daines  
**CHAIRMAN**

Jason Thielman  
**EXECUTIVE DIRECTOR**

October 9, 2024

**VIA ELECTRONIC MAIL**

Federal Election Commission  
1050 First Street, N.E.  
Washington, DC 20463

Dear Commissioners,

NRSC writes in response to the October 3rd comment on Advisory Opinion Request 2024-13 submitted by Requesters (the “DSCC Comment”).

In a pattern that has now become routine, DSCC urges the Commission to deny the legality of the fundraising plan outlined in its own advisory opinion request. And what’s worse, as the DSCC has begun to grow concerned that their ploy might backfire, the committee is now pitching media outlets and giving on-the-record statements admitting their motivation. Just today, a “DSCC aide” told Roll Call that they submitted this advisory opinion request “because [they] believe the Republican activity is illegal.”<sup>1</sup> In other words, they seek this advisory opinion not as a shield for their own conduct, but as a sword to wield against their political opponents.

While it is a peculiar strategy for a national political committee to file a request for an advisory opinion with the Commission and then argue that it is imperative for the Commission to deny said request, this strategy has now been deployed so frequently by the DSCC that it is no longer remarkable. This time, however, in addition to arguing against their own ostensible position, the DSCC has inadvertently undermined the fundraising model upon which Democratic presidential candidates have relied for several cycles when conducting advertising through joint fundraising committees. It is not clear whether the DSCC realizes that it is needlessly exposing the Democrats’ 2024 presidential candidate to legal liability to score political points. A deteriorating political environment for Requestors is the only explanation for this desperate move.

Given Commission precedent expressly approving the conduct at issue here—in a 5-0 bipartisan vote, no less—there is no serious legal question in dispute. As such, we look forward to a similarly bipartisan vote. After all, as Commissioner Lindenbaum acknowledged earlier this year, “[w]hat the law says and what some people might wish the law says are different,” and therefore the Commission should not “try to broaden the scope of the law to cover activities that

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<sup>1</sup> Mary Ellen McIntire, *FEC to Consider Clarifying What Joint Fundraising Committees Can Pay For in Political Ads*, Roll Call (Oct. 9, 2024), <https://rollcall.com/2024/10/09/fec-to-consider-clarifying-what-joint-fundraising-committees-can-pay-for-in-political-ads/>

we find to be bad or icky.”<sup>2</sup> By approving Draft A, the Commission will once again follow the law and formalize what has been happening in practice in accordance with Commission precedent.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "AP" followed by a stylized surname.

Ryan G. Dollar, General Counsel  
Andrew Pardue, Associate General Counsel

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<sup>2</sup> Shane Goldmacher, *A Democrat, Siding With the G.O.P., Is Removing Limits on Political Cash at “Breathtaking” Speed*, N.Y. Times (June 10, 2024) <https://www.nytimes.com/2024/06/10/us/politics/fec-deadlock-deregulation.html>.