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National Republican Congressional Committee

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Executive Director

September 29, 1992

92-0001
11/5/92

Late Comment
ADN 1992-33

Bradley Litchfield, Esq.
Deputy General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Litchfield:

The National Republican Senatorial Committee ("NRSC") and the National Republican Congressional Committee ("NRCC") wish to comment on Advisory Opinion Request 1992-33 pursuant to 11 C.F.R. § 112.3. While this comment is being submitted outside of the ten day comment period, we respectfully request that the Commission consider these comments prior to issuing an Advisory Opinion to the Democratic National Committee ("DNC") and the Republican National Committee ("RNC").

In their request, the DNC and the RNC explain the manner by which they have chosen to treat in-kind contributions from corporations received in connection with fundraising events in accordance with the allocation regulations found at 11 C.F.R. § 106.5. While the NRSC and the NRCC are not intimately familiar with the manner of bookkeeping done by the DNC and RNC, it appears as though those two party committees have chosen not to use an allocation account for these activities. As a result, those committees have chosen to transfer federal funds to their non-federal accounts to ensure that in-kind contributions from corporate donors are properly allocated. The DNC and RNC state that these transfers are made no earlier than ten days before the receipt of the in-kind contribution or sixty days after receipt of the contribution. The contributions are reported on Schedule I of the National Party committee's reports, as well as a transfer from the federal to the non-federal account on schedule A Line 22 of the national party committee's federal report. The Party Committees seek confirmation that this reporting is appropriate.

While the NRSC and the NRCC have no objection to the accounting method and reporting identified by the DNC and RNC we do

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not believe that this accounting method should be the only method acceptable to the Commission. Thus, we wish to address the situation where an allocation account is chosen to pay fundraising expenditures.

For simplicity, we start from the same premise as did the DNC and RNC that the appropriate allocation for a particular event is 50% federal, 50% non-federal. However, using an allocation account to pay for these expenditures creates a different result identified in the Advisory Opinion Request. By using an allocation account, a committee can treat an in-kind contribution to the non-federal account as an expenditure from the allocation account, 100% of which would be allocated as the non-federal share for that particular expenditure. This reporting reflects the precise nature of the contribution. However, in order to maintain the appropriate allocation ratio, the federal account would then transfer an amount greater than 50% of the remaining expenditures of the fundraising event to the allocation account so that the ultimate allocation is 50/50. As a result, the remaining expenditures would show a larger federal allocation on a per item basis than is required overall.

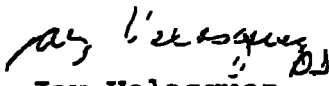
For example, assuming that the fundraising event receives a \$10,000 in-kind contribution from corporation X. As well as reporting the incoming contribution on a separate schedule A for the non-federal account, the in-kind contribution would be reflected on Schedule H4, as a \$10,000 expenditure allocated entirely to the non-federal share. Further, assuming the committee has incurred an additional \$20,000 in fundraising expenses, those expenses would also be identified on schedule H4. However, rather than transferring \$10,000 from both the federal and non-federal accounts to the allocation account to pay for these expenses (\$20,000 x 50%), the federal account would transfer \$15,000 to the allocation account while the non-federal account would transfer \$5,000 to the allocation account. The remaining disbursement would be reported as consisting of a \$15,000 federal and \$5,000 non-federal. The end result would be \$30,000 of total expenditures -- \$15,000 federal and \$15,000 non-federal -- in accordance with the appropriate allocation ratio.¹


¹ This is precisely the same if the \$10,000 in-kind contribution were reflected as an expenditure from the allocation account consisting of \$5,000 federal and \$5,000 non-federal dollars, and then reporting the remaining \$20,000 in expenditures as \$10,000 federal and \$10,000 non-federal.

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Having identified this alternative approach to treating in-kind contributions, we respectfully request that the Commission not limit its approval of the accounting method adopted by the DNC and RNC as the only permissible treatment of in-kind contributions.

Sincerely,


Jay Velasquez
National Republican
Senatorial Committee


Sue Wadel
National Republican
Congressional Committee