

ADR 2012-18

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February 17, 2012

Office of General Counsel  
Federal Election Commission  
999 E Street NW  
Washington, DC 20463  
*By email & 1st Class Mail*

Re: Advisory Opinion Request

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
2012 FEB 23 PM 1:56  
OFFICE OF GENERAL  
COUNSEL

To the Office of General Counsel,

On behalf of the National Right to Life Committee, Inc. ("NRLC"), we respectfully request an Advisory Opinion ("AO") from the Federal Election Commission ("FEC"), pursuant to 2 U.S.C. 437f of the Federal Election Campaign Act ("FECA"). NRLC seeks guidance as to whether it may pay for the establishment, administrative, and solicitation expenses of its recently established connected independent expenditure political committee, National Right to Life Victory Fund ("NRLVF"), in the same way that it pays for the same expenses for its separate segregated fund, National Right to Life Political Action Committee ("NRLPAC").

**Facts**

NRLC is an incorporated non-profit social welfare organization exempt from federal income taxation under section 501(c)(4) of the Internal Revenue Code. NRLC has a separate segregated fund, NRLPAC. On January 20, 2012, NRLC filed a statement of organization with the FEC to establish NRLVF. NRLC used the FEC's instructions from FEC AO 2010-09 in setting up this new committee. NRLC plans to pay the establishment, administration, and solicitation costs for NRLVF, which has been organized as a tax-exempt organization under section 527 of the Internal Revenue Code. NRLVF will file regular reports and independent expenditure reports. The current Treasurer of NRLPAC serves as Treasurer of NRLVF.

NRLVF intends to make only independent expenditures, which will comply with all requirements of federal law and regulations. It plans to solicit unlimited contributions from individuals and other entities the law allows to give unlimited contributions to independent expenditure-only political committees. NRLVF will not make any contributions or transfers of

Office of General Counsel

February 22, 2012

Page 2

funds to any political committee or other entity, nor will NRLVF make any coordinated communications or coordinate any expenditures with any candidate, authorized committee, political party committee, or agent of such persons. Finally, NRLVF will accept contributions from NRLPAC up to \$5,000 annually, but it will not make any contributions or transfers of funds to NRLPAC. NRLVF will receive unlimited contributions from NRLC, but will not make transfers of funds to NRLC.

### **Discussion**

Under FEC AO 2010-09, NRLC may establish a political committee such as NRLVF and it may operate as described above. As an independent expenditure-only group, NRLVF may solicit and accept unlimited contributions from the general public, as well as from certain entities, including corporations. And NRLC may pay the establishment, administration, and solicitation expenses of NRLVF. But, according to AO 2010-09, these payments are not exempt from the definition of contribution or expenditure in the same way that NRLC's payments of the same expenses for NRLPAC. So NRLVF must track and report these as contributions from NRLC, while NRLPAC does not have to do so.

In light of the consent decree in the *Carey v. FEC* decision, however, the distinction between a connected independent expenditure-only connected PAC and an SSF as far as paying for the costs of establishing, administering, or soliciting contributions is unjustified and illogical. *Carey* held that an un-connected PAC, which makes contributions to candidates and does coordinated expenditures, may nonetheless receive unlimited individual and corporate contributions to make independent expenditures, as long as it maintains separate bank accounts and keeps adequate records. Accordingly, there is no logical reason that a connected IE-only PAC should not be treated the same as an SSF for the purposes of paying establishment, administrative, and solicitation expenses. The added burden of having to track and report these expenses is unduly burdensome.

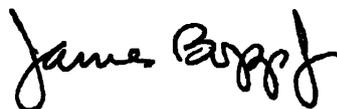
Office of General Counsel  
February 22, 2012  
Page 3

### Question

Under these circumstances, may NRLC pay for the establishment, administrative, and solicitation expenses for NRLVF without the burden of having to track and report them as contributions to NRLVF?

Sincerely,

BOPP, COLESON & BOSTROM

A handwritten signature in black ink that reads "James Bopp, Jr." in a cursive style.

James Bopp, Jr.

RECEIVED  
FEDERAL ELECTION  
COMMISSION



Kevin Deeley/FEC/US  
02/23/2012 01:44 PM

To Amy Rothstein/FEC/US@FEC, Robert  
Knop/FEC/US@FEC, Nevel Stipahovic/FEC/US@FEC,  
Anthony CONTRACTOR Bell/FEC/US@FEC

cc

bcc

Subject Fw: Advisory Opinion Request

RECEIVED  
OFFICE OF GENERAL  
COUNSEL

— Forwarded by Kevin Deeley/FEC/US on 02/23/2012 01:43 PM —

Anthony Herman/FEC/US  
02/23/2012 01:36 PM

To Kevin Deeley/FEC/US@FEC

cc

Subject Fw: Advisory Opinion Request

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Anthony Herman  
General Counsel  
Federal Election Commission  
202-694-1510

— Forwarded by Anthony Herman/FEC/US on 02/23/2012 01:36 PM —



JBoppjr@aol.com  
02/23/2012 01:12 PM

To aherman@fec.gov

cc

Subject Advisory Opinion Request

Please find attached hereto an Advisory Opinion Request, mailed yesterday, on behalf of the National Right to Life Victory Fund.

James Bopp Jr.  
The Bopp Law Firm  
The National Building  
1 South 6th Street  
Terre Haute, IN 47807-3510  
voice: 812-232-2434, ext. 22  
fax: 812-235-3685  
cell: 812-243-0825



jboppjr@aol.com NRLVictoryFundFECAORequest2012.pdf



Re: Request for Additional Information: Advisory Opinion Request Submitted by...

JBoppjr

to:

DAdkins

04/23/2012 05:28 PM

Cc:

NStipanovic, rknop

Hide Details

From: JBoppjr@aol.com

To: DAdkins@fec.gov,

Cc: NStipanovic@fec.gov, rknop@fec.gov

Thank you for the call and e-mail questions. The following is our answer.

The National Right to Life Committee originally operated only one PAC, the National Right to Life Political Action Committee. NRLC was permitted to pay all the administrative and fundraising expenses for NRLPAC and none of these expenses had to be reported by anyone to anybody so NRLC did not track the staff time and various costs associated with them.

The NRLC has now establish the Victory Fund, an independent-expenditure-only PAC. As we understand it, any fundraising and administrative cost paid for by NRLC for the Victory Fund must be reported as a contribution to the Victory Fund. As a result, NRLC will have to track the staff time, out-of-pocket costs and overhead attributable to these.

So the additional burden is the tracking for administrative and fundraising costs for the Victory Fund that NRLC do not have to do for NRLPAC.

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jboppjr@aol.com

In a message dated 4/23/2012 3:20:52 P.M. Eastern Daylight Time, DAdkins@fec.gov writes:

Mr. Bopp,

Per our phone conversation, please provide additional information on "the added burden" that NRLC endures by having to track and report its payment of NRLVF's establishment, administration, and solicitation costs.

Regards,

David Adkins

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David Adkins  
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Washington, D.C. 20463  
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