

**RECEIVED**

By Commission Secretary's Office at 5:42 pm, Apr 02, 2014



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**AGENDA DOCUMENT NO. 14-11-C**  
**AGENDA ITEM**  
**For meeting of April 3, 2014**  
**(SUBMITTED LATE)**

April 2, 2014

**MEMORANDUM**

TO: The Commission

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

Adav Noti *AN*  
Acting Associate General Counsel

Robert M. Knop *RMK*  
Assistant General Counsel

Cheryl Hemsley *CHH*  
Attorney

Esther D. Gyory *EDG*  
Attorney

Kevin Paulsen *KP by RMK*  
Extern

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

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 9:00 am (Eastern Time) on April 3, 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

**REVISED DRAFT A**

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 not transfer funds from the SCDCC’s  
17 dormant account to the Requestor’s federal account or spend such funds on federal election  
18 activity because the Requestor cannot determine that the funds comply with the Act and  
19 Commission regulations.

20 ***Background***

21 The facts presented in this advisory opinion are based on your letter received on  
22 January 13, 2014, supplemental information provided to the Commission on March 3, 2014, and  
23 March 28, 2014, and reports filed with the Commission.

24 In August 2004, the SCDCC established a federal and a non-federal bank account. The  
25 SCDCC’s treasurer registered the SCDCC with the Commission as a political party committee<sup>1</sup>  
26 in September 2004 and filed two regular reports with the Commission in October 2004. The  
27 treasurer subsequently failed to file any reports for the SCDCC in 2004 or 2005. The  
28 Commission issued nine separate notifications to the SCDCC regarding its failure to file during

---

<sup>1</sup> FEC committee number C00406108.

1 this time, but the treasurer did not respond to these notifications. The Commission therefore  
2 administratively terminated the committee on September 20, 2005.<sup>2</sup> The treasurer appears to  
3 have taken no remedial action regarding the SCDCC's termination; instead, the request indicates  
4 that he concealed the termination (and the noncompliance that preceded it) by reporting monthly  
5 to the SCDCC's members and officers that the SCDCC was fully in compliance with law.<sup>3</sup>  
6 From 2005 until 2008, the SCDCC continued operations, even though it had been  
7 administratively terminated by the Commission.

8 In 2008, the SCDCC's chairman discovered that the Commission had administratively  
9 terminated the SCDCC in 2005. The chairman then "isolated" the committee's federal account,  
10 suspended its further use, and registered a new committee with the Commission. The new  
11 committee — the Solano County United Democratic Central Committee — is the Requestor  
12 here.<sup>4</sup> The Requestor retained a financial management agency to manage its funds and reporting  
13 obligations.

14 The Requestor states that the SCDCC's federal account remained isolated and unused,  
15 becoming "nearly forgotten," between October 2008 and June 2012. In 2012, the Requestor  
16 elected a new treasurer, who re-discovered the SCDCC's federal account. The account has a  
17 current balance of \$10,808.81.<sup>5</sup> The Requestor has been unable to locate the SCDCC's records

---

<sup>2</sup> 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>.

<sup>3</sup> The treasurer later admitted to facing "overwhelming personal issues during the period [from] 2004-2008 that caused distraction from his duties."

<sup>4</sup> FEC committee number C00455865.

<sup>5</sup> A bank statement provided by the Requestor reflects a balance of \$11,583.81 as of August 31, 2012. The Requestor was not able to provide bank records accounting for the difference between this balance and the current balance, but stated that at least part of the discrepancy is due to the deduction of a \$769.02 bank fee for providing bank records.

1 pertaining to the account or to the origins of the funds it contains. The Requestor has, however,  
2 located limited bank records associated with the account. These records cover a period of time  
3 between 2004 and 2008. For 2004, the records include only monthly bank statements that do not  
4 provide any information on the source of deposits made. From 2005 through 2008, the records  
5 include copies of canceled checks that identify the name and address of the issuer. Some of  
6 these cancelled checks appear to be from political committees, business entities, or labor  
7 organizations rather than individuals. Moreover, the bank records suggest, and the Requestor has  
8 confirmed, that the SCDCC transferred funds from the SCDCC's non-federal account into the  
9 federal account in 2004 and 2012.

10 ***Question Presented***

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

12 ***Legal Analysis and Conclusion***

13 The Requestor may not deposit the funds from the SCDCC's dormant federal account  
14 into the Requestor's federal account or use those funds to finance federal election activity, as  
15 explained below.

16 The Act and Commission regulations provide that "an amount that is expended or  
17 disbursed for Federal election activity" by a state or local party committee "shall be made from  
18 funds subject to the limitations, prohibitions, and reporting requirements" of the Act. *See*  
19 2 U.S.C. § 441i(b)(1); *see generally* 11 C.F.R. §§ 300.30-.36. The Act and Commission  
20 regulations permit a state or local party committee to maintain nonfederal accounts and to  
21 allocate certain expenditures among its federal and nonfederal accounts, but all funds in the  
22 committee's federal account must comply with the Act's source-and-amount restrictions,

1 regardless of whether the committee spends those funds on federal or non-federal activity.  
2 11 C.F.R. § 300.30(b)(3).

3 Here, the SCDCC did not comply with basic disclosure requirements of the Act and  
4 Commission regulations, failing to file any regular reports, despite receiving nine monthly  
5 notifications from the Commission regarding the SCDCC's filing obligations. While the  
6 Requestor states that its "historical operations strongly suggest" that the funds in the account  
7 were "obtained through legitimate fund raising activities such as dinners, auctions, sales, and  
8 small community donations" and that all contributions "were made in accordance with FEC  
9 financial standards," the Requestor has not been able to provide the relevant records that  
10 demonstrate that the funds complied with the Act's limitations, prohibitions, and reporting  
11 requirements.<sup>6</sup>

12 Given the absence of sufficient documentation concerning the funds in question, the  
13 inability of the Requestor to fully demonstrate that the funds comply with the source prohibitions  
14 and amount limitations contained in the Act and Commission regulations, and the SCDCC's  
15 failure to comply with the reporting requirements of the Act and Commission regulations, the  
16 Commission concludes that the Requestor may not transfer those funds to the Requestor's  
17 federal account or disburse them for any federal election activity that must be financed with  
18 federal funds under 2 U.S.C. § 441i(b) and Commission regulations. The Commission expresses  
19 no view as to whether the Requestor may transfer the SCDCC's funds to the Requestor's

---

<sup>6</sup> This situation is distinguishable from that in Advisory Opinion 1981-01 (Bay Area Committee), where the Commission allowed the treasurer of long-dormant committees that had discovered funds remaining in their accounts to "make his or her best efforts to disclose the source" of the funds to be transferred to a party committee's federal account. In that instance, unlike here, the dormant committees "were registered and filed periodic campaign disclosure reports under the Federal laws then applicable," *id.* at 1, 3. Moreover, Advisory Opinion 1981-01 predated the enactment of the Bipartisan Campaign Reform Act and 2 U.S.C. § 441i. See Section 309 of the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155 (2002).

