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FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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

April 2, 2014

**MEMORANDUM**

TO: The Commission

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

Adav Noti *AN by RMK*  
Acting Associate General Counsel

Robert M. Knop *RMK*  
Assistant General Counsel

Cheryl Hemsley *CAFH by RMK*  
Attorney

Esther D. Gyory *EDG by RMK*  
Attorney

Kevin Paulsen *KP by RMK*  
Extern

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

Attached is a proposed draft of the subject advisory opinion.

Members of the public may 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 attend the Commission meeting, go to <http://www.fec.gov/law/draftaos.shtml>.

1  
2 ADVISORY OPINION 2014-01

3  
4 Mr. Paul Stichick  
5 Treasurer  
6 Solano County United Democratic Central Committee  
7 P.O. Box 2140  
8 Fairfield, CA 94533  
9

**REVISED DRAFT C**

10 Dear Mr. Stichick:

11  
12 We are responding to your advisory opinion request on behalf of the Solano County  
13 United Democratic Central Committee (the “Requestor”) concerning the application of the  
14 Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations to  
15 the Requestor’s proposed use of funds in a dormant bank account established by the Requestor’s  
16 predecessor political committee, the Solano County Democratic Central Committee (“SCDCC”).  
17 Based upon the information provided in the Advisory Opinion Request and supplemental filings,  
18 the Commission concludes that the Requestor may transfer funds from the SCDCC’s dormant  
19 account to the Requestor’s federal account and spend such funds on federal election activity  
20 provided it makes best efforts to disclose the source of the cash on hand balance.

21 ***Background***

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

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

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

1 Commission issued nine separate notifications to the SCDCC regarding its failure to file during  
2 this time, but the treasurer did not respond to these notifications. The Commission therefore  
3 administratively terminated the committee on September 20, 2005.<sup>2</sup> Between 2004 and 2008 the  
4 treasurer reported monthly to the SCDCC's members and officers that the SCDCC was fully in  
5 compliance with law.<sup>3</sup> Once the SCDCC's chairman discovered in 2008 that the committee had  
6 been terminated, the chairman took steps to notify the committee membership and the SCDCC  
7 stopped using the account, which held only \$11,654.77 as of October 2008.

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 United –SCDCC Federal Account — is the Requestor here.<sup>4</sup> The  
12 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 and learned that it held  
17 a balance of \$11,654.77 as of October 2008. The Requestor has located bank records associated  
18 with the account. These records include the name and address of contributors and the date and  
19 amount of contributions received between 2005-2008.

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<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.

1 ***Question Presented***

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

3 ***Legal Analysis and Conclusion***

4 Yes, under the circumstances and material facts set forth in the Advisory Opinion  
5 Request and supplemental filings as summarized above, the Requestor may deposit the funds  
6 from the SCDCC's dormant federal account into the Requestor's federal account and use those  
7 funds to finance federal election activity, provided it makes best efforts to disclose the source of  
8 the cash on hand balance.

9 The Act and Commission regulations generally provide that state, district, and local party  
10 committees may finance federal election activity only with funds that are subject to the  
11 limitations, prohibitions, and reporting requirements of the Act. *See* 2 U.S.C. § 441i(b)(1); *see*  
12 *generally* 11 C.F.R. §§ 300.30-.36. A political committee's treasurer is "responsible for  
13 examining all contributions received for evidence of illegality" and must maintain records and  
14 accounts of the contributions for three years after filing the report to which the records and  
15 accounts relate. 11 C.F.R. §§ 102.9(c), 103.3; *see also* 2 U.S.C. § 432(d). Where a committee  
16 seeks to spend funds for which the three-year recordkeeping period has expired, a treasurer  
17 "need only make his or her best efforts to disclose the source of the cash-on-hand balance." *See*  
18 *Advisory Opinion 1981-01 (Bay Area Committee)* at 3.

19 Under the circumstances presented here, the Requestor may deposit the funds from the  
20 SCDCC's dormant federal account into the Requestor's federal account and use those funds to  
21 finance federal election activity provided it make best efforts to disclose the source of its cash on  
22 hand balance. The SCDCC's federal account has not been used since 2008, placing it well  
23 outside of the Commission's three-year record retention requirement. The Requestor does,

1 however, have bank records for the dormant federal account which provide at least the name and  
2 address of contributors and the date and amount of accompanying contributions. As noted,  
3 where a committee seeks to spend funds for which the three-year recordkeeping period has  
4 expired, the treasurer must make his or her best efforts to disclose the source of the cash on hand  
5 balance. *See* 11 C.F.R. § 102.9(c) and (d).

6         The best efforts requirement stated above may be satisfied in this case by attributing the  
7 remaining cash on hand balance to contributors listed on the committee’s bank records through a  
8 reasonable accounting method that employs generally accepted accounting principles. *See*  
9 Advisory Opinion 2007-26 (Schock) at 3 (noting that in prior advisory opinions “the  
10 Commission stated that the method described in 11 CFR 110.3(c)(4), which is known as the ‘last  
11 in, first transferred’ method is a reasonable accounting method. . . . This does not preclude [the  
12 Requestor] from using a different reasonable accounting method that employs generally accepted  
13 accounting principles when identifying remaining donations in its campaign account and  
14 determining what funds are Federally permissible.”); *see also* 11 C.F.R. § 110.3(c)(4); 11 C.F.R.  
15 § 104.12. The Requestor must review all contributor information available for any potential  
16 excessive contributions or prohibited sources, and making at least one written or oral request for  
17 evidence of the contribution’s legality if it cannot be determined on its face.

18         Commission regulations permit transfers of funds between party committees of the same  
19 party outside of the contribution limits set forth at 2 U.S.C. § 441a. 11 C.F.R. § 110.3(c)(1).  
20 Commission regulations further provide that committees are affiliated for purposes of the Act’s  
21 contribution limits if they are “established, financed, maintained, or controlled” by the same  
22 person or group of persons. 11 C.F.R. §100.5(g)(2). The Requestor is a successor committee to  
23 SCDCC; they both appear to be committees of the same party that were and are “established,

1 financed, maintained, or controlled” by the same person or persons, *i.e.*, the Solano County  
2 Democratic Party. Thus, upon completing the best efforts described above, the Requestor may  
3 receive only those funds which it has determined not to be excessive contributions or  
4 contributions from prohibited sources into its current federal account. Any such receipt should  
5 be reported as a transfer from an affiliated committee on Line 12 of the Requestor’s Schedule A  
6 (FEC Form 3X), and the Requestor should also disclose SCDCC as an affiliated committee on  
7 Line 6 of their Statement of Organization (FEC Form 1). In the circumstances here, where the  
8 original contributors should have been listed on the SCDCC’s original reports but were not due  
9 to the committee’s failure to file required reports, the Requestor should list the original  
10 contributors as determined above as memo entries to the itemized transfer disclosed on Schedule  
11 A. *See* Attachment A.

12         The Commission expresses no view as to whether the Requestor may transfer SCDCC’s  
13 funds to the Requestor’s nonfederal account and/or spend these funds on nonfederal activity,  
14 which are questions of state and local law outside of the Commission’s jurisdiction.

15         This response constitutes an advisory opinion concerning the application of the Act and  
16 Commission regulations to the specific transaction or activity set forth in your request. *See*  
17 2 U.S.C. § 437f. The Commission emphasizes that, if there is a change in any of the facts or  
18 assumptions presented, and such facts or assumptions are material to a conclusion presented in  
19 this advisory opinion, then the Requestor may not rely on that conclusion as support for its  
20 proposed activity. Any person involved in any specific transaction or activity which is  
21 indistinguishable in all its material aspects from the transaction or activity with respect to which  
22 this advisory opinion is rendered may rely on this advisory opinion. *See* 2 U.S.C.  
23 § 437f(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be

1 affected by subsequent developments in the law, including, but not limited to, statutes,  
2 regulations, advisory opinions, and case law. The advisory opinion cited herein is available on  
3 the Commission's website.

4 On behalf of the Commission,  
5  
6  
7

8 Lee E. Goodman  
9 Chairman  
10  
11  
12

**SCHEDULE A (FEC Form 3X)**  
**ITEMIZED RECEIPTS**

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: PAGE 6 OF 8  
(check only one)  
 11a  11b  11c  12  
 13  14  15  16  17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)  
**SOLANO COUNTY UNITED DEMOCRATIC CENTRAL COMMITTEE**

**A. SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC**  
 Full Name (Last, First, Middle Initial)  
 Mailing Address 2790 VISTA GRANDE  
 City State Zip Code  
 FAIRFIELD CA 94534  
 FEC ID number of contributing federal political committee. **C** C00406108  
 Name of Employer Occupation  
 Receipt For:  
 Primary  General  
 Other (specify) ▼  
 Aggregate Year-to-Date ▼  
 10808.81

Date of Receipt  
 M M / D D / Y Y Y Y Y Y  
 01 / 01 / 2014  
**Transaction ID : SA12.4098**  
 Amount of Each Receipt this Period  
 10808.81  
 Transfer

**B. Mary Cruz**  
 Full Name (Last, First, Middle Initial)  
 Mailing Address 11 Vista Montana Drive  
 City State Zip Code  
 Fairfield CA 94534  
 FEC ID number of contributing federal political committee. **C**  
 Name of Employer Occupation  
 Self Radiologist  
 Receipt For:  
 Primary  General  
 Other (specify) ▼  
 Aggregate Year-to-Date ▼  
 3000.00

Date of Receipt  
 M M / D D / Y Y Y Y Y Y  
 01 / 01 / 2014  
**Transaction ID : SA12.4098.0**  
 Amount of Each Receipt this Period  
 3000.00  
**\*\*SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC**  
**[MEMO ITEM]**

**C. John Jones**  
 Full Name (Last, First, Middle Initial)  
 Mailing Address 12 Main Street  
 City State Zip Code  
 Vacaville CA  
 FEC ID number of contributing federal political committee. **C**  
 Name of Employer Occupation  
 Self Attorney  
 Receipt For:  
 Primary  General  
 Other (specify) ▼  
 Aggregate Year-to-Date ▼  
 4000.00

Date of Receipt  
 M M / D D / Y Y Y Y Y Y  
 01 / 01 / 2014  
**Transaction ID : SA12.4098.1**  
 Amount of Each Receipt this Period  
 4000.00  
**\*\*SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC**  
**[MEMO ITEM]**

**SUBTOTAL** of Receipts This Page (optional).....▶ 10808.81  
**TOTAL** This Period (last page this line number only).....▶



**SCHEDULE A (FEC Form 3X)**  
**ITEMIZED RECEIPTS**

Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)	PAGE 7 OF 8
<input type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c	<input checked="" type="checkbox"/> 12
<input type="checkbox"/> 13	<input type="checkbox"/> 14	<input type="checkbox"/> 15	<input type="checkbox"/> 16 <input type="checkbox"/> 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)  
**SOLANO COUNTY UNITED DEMOCRATIC CENTRAL COMMITTEE**

Full Name (Last, First, Middle Initial) <b>A. David Smith</b>		Date of Receipt MM / DD / YYYY 01 / 01 / 2014 <b>Transaction ID : SA12.4098.2</b>
Mailing Address 4 West Third St.		Amount of Each Receipt this Period 3195.00
City Fairfield	State CA	Zip Code 94534
FEC ID number of contributing federal political committee. C	Name of Employer Occupation Retired	**SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼	Aggregate Year-to-Date ▼ 3195.00	<b>[MEMO ITEM]</b>

Full Name (Last, First, Middle Initial) <b>B. Paul Johnson</b>		Date of Receipt MM / DD / YYYY 01 / 01 / 2014 <b>Transaction ID : SA12.4098.3</b>
Mailing Address 104 Rockville Road		Amount of Each Receipt this Period 58.81
City Fairfield	State CA	Zip Code 94534
FEC ID number of contributing federal political committee. C	Name of Employer Occupation Student	**SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼	Aggregate Year-to-Date ▼ 58.81	<b>[MEMO ITEM]</b>

Full Name (Last, First, Middle Initial) <b>c. Albert Lang</b>		Date of Receipt MM / DD / YYYY 01 / 01 / 2014 <b>Transaction ID : SA12.4098.4</b>
Mailing Address 22 Bank Street		Amount of Each Receipt this Period 200.00
City Fairfield	State CA	Zip Code 94534
FEC ID number of contributing federal political committee. C	Name of Employer Occupation Community Hospital ER Nurse	**SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼	Aggregate Year-to-Date ▼ 200.00	<b>[MEMO ITEM]</b>

<b>SUBTOTAL</b> of Receipts This Page (optional).....▶	0.00
<b>TOTAL</b> This Period (last page this line number only).....▶	

**SCHEDULE A (FEC Form 3X)**  
**ITEMIZED RECEIPTS**

Use separate schedule(s) for each category of the Detailed Summary Page		FOR LINE NUMBER: (check only one)	PAGE 8 OF 8
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<input type="checkbox"/> 13	<input type="checkbox"/> 14	<input type="checkbox"/> 15	<input type="checkbox"/> 16 <input type="checkbox"/> 17

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NAME OF COMMITTEE (In Full)  
**SOLANO COUNTY UNITED DEMOCRATIC CENTRAL COMMITTEE**

**A. Martha Miller**  
Full Name (Last, First, Middle Initial)  
Mailing Address 46 Quincy Street  
City Fairfield State CA Zip Code 94534  
FEC ID number of contributing federal political committee. **C**  
Name of Employer Self Occupation Doctor  
Receipt For:  Primary  General  Other (specify) ▼  
Aggregate Year-to-Date ▼ 75.00

Date of Receipt 01 / 01 / 2014  
**Transaction ID : SA12.4098.5**  
Amount of Each Receipt this Period 75.00  
\*\*SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC  
**[MEMO ITEM]**

**B. Bob Ryan**  
Full Name (Last, First, Middle Initial)  
Mailing Address 84 Van Buren Street  
City Fairfield State CA Zip Code 94534  
FEC ID number of contributing federal political committee. **C**  
Name of Employer Bob's Organic Produce Occupation Farmer  
Receipt For:  Primary  General  Other (specify) ▼  
Aggregate Year-to-Date ▼ 130.00

Date of Receipt 01 / 01 / 2014  
**Transaction ID : SA12.4098.6**  
Amount of Each Receipt this Period 130.00  
\*\*SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC  
**[MEMO ITEM]**

**C. Jessica Jones**  
Full Name (Last, First, Middle Initial)  
Mailing Address 17 Oxford Street  
City Fairfield State CA Zip Code 94534  
FEC ID number of contributing federal political committee. **C**  
Name of Employer Western Electronics Occupation Engineer  
Receipt For:  Primary  General  Other (specify) ▼  
Aggregate Year-to-Date ▼ 150.00

Date of Receipt 01 / 01 / 2014  
**Transaction ID : SA12.4098.7**  
Amount of Each Receipt this Period 150.00  
\*\*SOLANO COUNTY DEMOCRATIC CENTRAL COMMITTEE SCDCC  
**[MEMO ITEM]**

<b>SUBTOTAL</b> of Receipts This Page (optional).....	0.00
<b>TOTAL</b> This Period (last page this line number only).....	10808.81