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FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**AGENDA DOCUMENT NO. 19-30-A**  
**AGENDA ITEM**  
**For meeting of July 11, 2019**  
**SUBMITTED LATE**

July 5, 2019

**MEMORANDUM**

TO: The Commission

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

Neven F. Stipanovic *NFS by RMK*  
Acting Associate General Counsel

Robert M. Knop *RMK*  
Acting Assistant General Counsel

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Attorney

Subject: Draft AO 2019-09 (Mad Dog PAC) 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 12:00 pm (Eastern Time) on July 10, 2019.

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 <https://www.fec.gov/legal-resources/advisory-opinions-process/>.

Attachment

1 ADVISORY OPINION 2019-09  
2  
3 Claude A. Taylor  
4 Chairman  
5 Mad Dog PAC  
6 2000 14<sup>th</sup> Street NW, Suite 104  
7 Box 73071  
8 Washington, DC 20056  
9

**DRAFT A**

10 Dear Mr. Taylor:

11 We are responding to your advisory opinion request on behalf of Mad Dog PAC  
12 (“the Committee”), regarding the application of the Federal Election Campaign Act, 52  
13 U.S.C. §§ 30101-45 (the “Act”), and Commission regulations to the Committee’s  
14 proposal to raise funds for the Committee by selling t-shirts bearing the facial likenesses  
15 and names of certain candidates. The Commission concludes that the Committee’s  
16 proposal is permissible under the Act and Commission regulations because the  
17 Committee will treat the full amount of proceeds it receives from the sale of t-shirts as a  
18 contribution and will comply with the applicable disclaimer, source, amount, and  
19 reporting requirements.

20 ***Background***

21 The facts presented in this advisory opinion are based on your letter received on  
22 May 20, 2019, and your subsequent emails received on June 4 and 28.

23 Mad Dog PAC is a registered nonconnected committee<sup>1</sup> that engages in “high-  
24 visibility, high-impact, peaceful activities . . . with a specific focus on generating support

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<sup>1</sup> Mad Dog PAC, Statement of Organization, Amend., FEC Form 1 (Oct. 24, 2018),  
<https://docquery.fec.gov/pdf/967/201810249130854967/201810249130854967.pdf>.

1 for the removal of Donald J. Trump” from the office of President. Advisory Opinion  
2 Request at AOR001.

3         The Committee intends to sell t-shirts featuring the facial likenesses and names of  
4 various candidates seeking the Democratic Party’s nomination for the 2020 presidential  
5 election. *Id.* The Committee will use the sale proceeds “to continue and expand [its]  
6 efforts to advance the Mad Dog PAC agenda.” AOR002. The Committee will use free,  
7 open source candidate photos as the basis for the graphic depictions on the t-shirts.  
8 AOR004. The Committee will neither communicate nor share proceeds with any of the  
9 candidates. AOR002. The t-shirts will be sold exclusively on the Committee’s  
10 website, [www.MadDogPac.com](http://www.MadDogPac.com), where purchasers will be informed that the entire  
11 purchase price is a contribution to the Committee, and that the images on the t-shirts for  
12 sale were not authorized by any candidate or any candidate’s authorized campaign  
13 committee. AOR001, AOR004; AOR Supp. The Committee will also screen potential  
14 purchasers to prevent receiving contributions from impermissible sources and will require  
15 eligible purchasers to provide all required contributor information so that the Committee  
16 can ensure that (1) no purchaser’s contributions exceed the applicable contribution limits  
17 and (2) every purchaser’s aggregate contributions comply with the applicable reporting  
18 requirements.<sup>2</sup>

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<sup>2</sup> Before allowing contributors to purchase t-shirts, [www.MadDogPAC.com](http://www.MadDogPAC.com) will require them to provide their name, mailing address, employer, and occupation, and to affirmatively agree that they are United States citizens (or legally admitted permanent residents), that the contributions are from their personal funds, are not made with a corporate or business credit card, that they are at least 18 years old, and that they are not a federal contractor.

1 ***Question Presented***

2 *May the Committee raise funds by selling t-shirts bearing the facial likenesses*  
3 *and names of candidates for the Democratic Party’s 2020 presidential nomination?*

4 ***Legal Analysis and Conclusion***

5 Yes, the Committee may raise funds by selling t-shirts bearing the facial  
6 likenesses and names of candidates for the Democratic Party’s 2020 presidential  
7 nomination because the Committee will treat the entire purchase price of the t-shirts as  
8 contributions and will comply with the applicable disclaimer, source, amount, and  
9 reporting requirements.

10 Under the Act, a contribution includes “any gift, subscription, loan, advance, or  
11 deposit of money or anything of value made by any person for the purpose of influencing  
12 any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i); *see also*  
13 11 C.F.R. § 100.52(a). The definition of “contribution” includes the “entire amount paid  
14 as the purchase price for a fundraising item sold by a political committee.”  
15 11 C.F.R. § 100.53; *see also* Advisory Opinion 1990-26 (Committee to Re-Elect Virginia  
16 Smith to Congress) at 1-2 (explaining that the Commission has generally viewed “the  
17 sale or commercial use of committee assets by a . . . political committee to be fundraising  
18 for political purposes”); Advisory Opinion 1995-24 (Palmer) (concluding that the  
19 proceeds from the sale of books by authorized committee constitute contributions in the  
20 full amount paid by the purchaser).

21 The Committee proposes to raise funds by selling t-shirts on the Committee’s  
22 website. Because this proposal would result in the monetary proceeds from such sales  
23 being deposited in the Committee’s campaign depository, the full amount paid by the

1 purchasers of the t-shirts must be treated as a contribution to the Committee. In addition,  
2 in order to comply with the Act's disclaimer requirement for solicitations, the  
3 Committee's website must inform potential t-shirt purchasers that the images on the t-  
4 shirts for sale were not authorized by any candidate or any candidate's authorized  
5 campaign committee. 52 U.S.C. § 30120(a)(3); 11 C.F.R. § 110.11(b)(3). You indicate  
6 that the Committee intends to comply with both of these requirements. AOR004; AOR  
7 Supp.

8         Before accepting a contribution, the treasurer of a political committee must  
9 examine it "for evidence of illegality and for ascertaining whether contributions received,  
10 when aggregated with other contributions from the same contributor, exceed the  
11 contribution limitations." *See* 11 C.F.R. § 103.3(b). The online certification mechanism  
12 currently employed by the Committee, *see* <https://www.MadDogPac.com>, satisfies the  
13 source screening requirement. *See e.g.*, Advisory Opinion 2018-13 (OsiaNetwork) at 7.  
14 In addition, the Committee's website requires purchasers to complete mandatory online  
15 fields that provide the Committee with the information necessary to identify contributors  
16 and screen for excessive contributions from each purchaser. Taken together, these online  
17 procedures will enable the Committee's treasurer to meet the screening requirements for  
18 contributions in 11 C.F.R. § 103.3(b).

19         Once a political committee accepts a contribution, it must comply with certain  
20 reporting requirements. First, as noted above, a political committee must treat the entire  
21 purchase price of fundraising items it sells as a contribution from the purchaser to the  
22 political committee. 11 C.F.R. § 100.53. Second, a political committee must aggregate  
23 all contributions received from each contributor and, if the aggregate amount exceeds a

1 certain threshold, the committee must report it as a contribution and include the  
2 identification of the contributor. 52 U.S.C. § 30104(b)(2) and  
3 (3);11 C.F.R. § 104.3(a)(4)(i) and (ii). You indicate that the Committee intends to  
4 comply with both of these requirements. AOR004; AOR Supp.

5 Accordingly, because the Committee will treat the entire purchase price of the t-  
6 shirts as contributions and will comply with the applicable disclaimer, source, amount,  
7 and reporting requirements, the Commission concludes that the Committee's proposal is  
8 permissible under the Act and Commission regulations.

9 This response constitutes an advisory opinion concerning the application of the  
10 Act and Commission regulations to the specific transaction or activity set forth in your  
11 request. *See* 52 U.S.C. § 30108. The Commission emphasizes that, if there is a change  
12 in any of the facts or assumptions presented, and such facts or assumptions are material to  
13 a conclusion presented in this advisory opinion, then the requestor may not rely on that  
14 conclusion as support for its proposed activity. Any person involved in any specific  
15 transaction or activity which is indistinguishable in all its material aspects from the  
16 transaction or activity with respect to which this advisory opinion is rendered may rely on  
17 this advisory opinion. *See* 52 U.S.C. § 30108(c)(1)(B). Please note that the analysis or  
18 conclusions in this advisory opinion may be affected by subsequent developments in the

1 law including, but not limited to, statutes, regulations, advisory opinions, and case law.

2 Any advisory opinions cited herein are available on the Commission's website.

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On behalf of the Commission,

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Ellen L. Weintraub

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Chair

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