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December 12, 2006

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Lawrence H. Norton
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Advisory Opinion Request

Dear Mr. Norton:

We are writing on behalf of Senator-Elect Bob Casey Jr. and his state campaign committee, which was established when he was a candidate for State Treasurer of Pennsylvania in 2004 (the "Casey State Committee"). Pursuant to 2 U.S.C. § 437f, we seek an advisory opinion confirming that the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations permit the Casey State Committee's funds that are within the limits and source restrictions of 2 U.S.C. § 441i(e)(1)(B) to be disbursed for state and local candidates and for other purposes related to state and local elections, described more fully below.

Because the Casey State Committee is "established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office" and wishes to disburse funds in connection with "any election other than an election for Federal office," the Committee is subject to the restrictions set forth in 2 U.S.C. § 441i(e)(1)(B)(i) and (ii). Section 441i(e)(1) of the Act requires that:

A candidate, individual holding Federal office . . . or an entity established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office, shall not . . . solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection

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with such an election unless the funds (i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1), (2), and (3) of [2 U.S.C. § 441a(a)]; and (ii) are not from sources prohibited by this Act from making contributions in connection with an election for Federal office.

2 U.S.C. § 441i(e).

Previously, the Commission concluded that under 2 U.S.C. § 441i(e)(1)(B), Representative Ray LaHood's state exploratory committee may use its funds, which are not in excess of the amounts permitted as contributions to federal candidates and are not from prohibited sources, to make donations to: state and local candidates, the nonfederal accounts of state and local party organizations, and section 501(c)(3) organizations that do not conduct any election activity; provided, however, that all such donations are made in accordance with state law. *See Advisory Opinion 2005-5.*

Unlike Representative LaHood's state exploratory committee, the Casey State Committee's funds include both federally permissible funds, and funds that are in excess of the contribution limits for federal officeholders or from prohibited sources (i.e., incorporated state PACs). For this reason, we wish to confirm that the following proposed activities are in accordance with 2 U.S.C. § 441i(e)(1)(B)(i) and (ii).

The Casey State Committee intends to identify its "federally permissible funds" through a reasonable accounting method. The funds will consist solely of donations from individuals and other federally permissible sources of up to \$2100. The Casey State Committee intends to use only federally permissible funds to make donations to state or local candidates, or to the nonfederal account of a state or local Democratic party organization, or to pay for travel by Mr. Casey or one his agents that is undertaken solely in connection with campaign events for state or local candidates or for other events that are solely in connection with state or local elections. No funds will be used in connection with any federal election.

The remainder of the funds (e.g., those amounts in excess of \$2100 per donor) will also be disbursed in accordance with Pennsylvania law, but will not be used in connection with any election. For example, these funds may be used to make a donation to a section 501(c)(3) organization that does not conduct any election activity. *See Advisory Opinion 2003-32.*

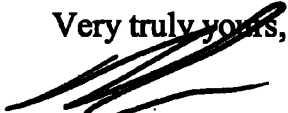
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The Casey State Committee seeks guidance from the Commission on the following:

1. Is the proposed method for identifying federally permissible funds under 2 U.S.C. § 441i(e)(1)(B) permissible? If not, what additional steps should the Casey State Committee take to identify its federally permissible funds?
2. May the Casey State Committee use its federally permissible funds to make donations to state and local candidates and nonfederal accounts of state and local Democratic party organizations, in accordance with Pennsylvania law?
3. May the Casey State Committee use its federally permissible funds to pay for travel by Mr. Casey or one his agents that is undertaken solely in connection with campaign events for state or local candidates or for other events that are solely in connection with state or local elections (e.g., a rally for state or local candidates held by a state or local party organization), provided that such disbursements are also made in accordance with Pennsylvania law?

Thank you for your consideration of this matter.

Very truly yours,



Marc E. Elias
Caroline P. Goodson
Counsel to the Committee