



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: The Commission

FROM: Commission Secretary's Office *Reg*

DATE: October 27, 2016

SUBJECT: Comments on Draft AO 2016-12
(Citizen Super PAC)

Attached are timely submitted comments received from Chris K. Gober and Troy A. McCurry on behalf of Citizen Super PAC. This matter is on the October 27, 2016 Open Meeting Agenda.

Attachment

2016 OCT 27 AM 8:05
Chris Gober
cg@gobergroup.com
Troy McCurry
tm@gobergroup.com

October 26, 2016

VIA EMAIL

Office of the Commission Secretary
Attn: Shawn Woodhead Werth
Secretary and Clerk of the Commission
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Comments on Draft Advisory Opinion for Advisory Opinion Request 2016-12

Dear Ms. Werth:

We submit these comments on behalf of our client, Citizen Super PAC, to respond to Draft Advisory Opinion B. Unfortunately, it appears that Draft B has subtly altered the facts of the request, and it is our hope to provide additional clarity in advance of the Commission's final consideration of this request.

Draft B states, "Under Citizen Super PAC's proposal, Citizen Super PAC would provide the authorized would provide the authorized committee of the candidate identified in the video with a public internet hyperlink to the webpage for the advertisement project, and the authorized committee would, *at Citizen Super PAC's request*, place the hyperlink on its own website, send an email to the candidate's supporters soliciting contributions to Citizen Super PAC, and include in the email a public internet hyperlink to the advertisement project supporting that candidate." Draft B at 6-7 (emphasis added). Yes, Question 2 contemplates Citizen Super PAC requesting that the authorized committee send an email to the candidate's supporters soliciting contributions to Citizen Super PAC; however, Question 3 contemplates no such action by the authorized committee "at Citizen Super PAC's request." In summary:

- Question 3(a) contemplates the airing of the advertisement after Citizen Super PAC provides a public Internet hyperlink of the advertisement to the authorized committee. The facts provided in this question do not include a request or suggestion by Citizen Super PAC.

- Question 3(b) contemplates the authorized committee placing a public Internet hyperlink of the advertisement on its own website. The facts provided in this question do not include a request or suggestion by Citizen Super PAC.
- Question 3(c) contemplates the authorized committee sending an email to the candidate's supporters soliciting contributions to Citizen Super PAC. The facts provided in this question do not include a request by Citizen Super PAC. If that were the case, then this would be the same question presented in Question 2, and it is not.
- Question 3(d) involves the same fact pattern in Question 3(c), but with the additional fact that the authorized committee's email would include a public Internet hyperlink – either to its own website or to Citizen Super PAC's website – that links to the advertisement. The facts provided in this question do not include a request or suggestion by Citizen Super PAC.

In other words, Citizen Super PAC asked four questions – Questions 3(a), 3(b), 3(c), and 3(d) – that are distinct from the facts posed in Question 2. It should be obvious, however, that Draft B incorrectly conflates the facts posed in Question 3 with those in Question 2. By subtly altering these facts, Draft B avoids answering each of the specific questions actually posed by Citizen Super PAC in Question 3.

To be clear, in Questions 3(a), 3(b), 3(c), and 3(d), Citizen Super PAC is not planning to request or suggest that a Federal candidate's authorized committee undertake any of these actions. Nowhere in this section of the request does Citizen Super PAC state that it wishes to make such a private request or suggestion. And while Question 3(a) does contemplate communication between Citizen Super PAC and the authorized committee, that communication involves Citizen Super PAC merely informing the authorized committee of the existence of an already-public website.

We hope that Draft B represents a misunderstanding, but regardless we ask the Commission to address our request as presented and under the facts stated. Thank you for your consideration.

Sincerely,



Chris K. Gober
Troy A. McCurry

cc: Matthew S. Petersen, Chairman
Steven T. Walther, Vice Chairman
Caroline C. Hunter, Commissioner

Ellen L. Weintraub, Commissioner
Lee E. Goodman, Commissioner
Ann M. Ravel, Commissioner