

FEC Interprets the BCRA

September 2003

The Federal Election Commission has been dealing with many requests for Advisory Opinions involving interpretations of the Bipartisan Campaign Reform Act of 2002 (BCRA). Among those recently decided are as follows:

Advisory Opinion 2003-12

In Advisory Opinion 2003-12, the Commission, after considerable debate, determined that Representative Jeff Flake of Arizona and Stop Taxpayer Money for Politicians Committee (STMP) could not raise funds outside the limitations and restrictions of federal campaign finance law. In short, STMP, which wished to qualify and pass as state referendum to repeal portions of Arizona's campaign finance law, could not raise more than \$5,000 per year from individuals or raise funds from corporations. The Commission arrived at this conclusion because Representative Flake had a significant and active role in forming STMP. Therefore, the Commission concluded, STMP was "established, financed, maintained, or controlled" by Representative Flake and subject to the restrictions imposed by the BCRA.

On the other hand, the Commission stated that STMP and Representative Flake's principal campaign committee were not affiliated. The Commission analogized STMP's situation to that of a leadership PAC.

Advisory Opinion 2003-16

The FEC, in Advisory Opinion 2003-16, permitted Provident National Bank to establish affinity credit card programs with national political party committees as sponsors. The Commission allowed such an affinity card program as long as the program was conducted in an arms-length fashion and the bank did not provide the party with more than the "normal and usual charge" for the party's mailing list.

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The Commission allowed the bank to permit the cardholders to designate a portion of his or her card rebates or bonuses to the party, subject to certain restrictions. Further, the Commission allowed the bank to award points for contributions to the party that were charged on the credit card as long as the party agreed to pay the fair market value for such points. Finally, the FEC permitted the party to purchase ad space in the bank's mailings to cardholders and prospective cardholders.