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Overview of Direct to Candidate Fundraising

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Background on Today's Speakers



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- Has advised some of the nation's largest-spending super PACs



Overview: Direct to Candidate Fundraising

- This presentation unpacks how, under FEC AO 2022-23, a PAC can operate a Direct to Candidate fundraising program and solicit employees and even the general public to contribute directly to the PAC's preferred candidates.
 - >>> Can communicate beyond the restricted class.
 - >>> No prior approval required!



Traditional Methods of Communication

- For corporations/trade associations: restricted class communications
 - Advocate for particular candidates
 - Could include candidate links
 - No direct insight into what happened
 - Generally should include “voluntary” disclaimers
- Corporations/trade associations cannot collect contributions



Traditional Methods of Communication

- Corporate PACs can make independent expenditures
 - But does not often happen
 - Using PAC \$ for IEs does not always offer the best return



The PAC's Traditional Fundraising Role

- Most corporate/trade association PACs have focused on raising funds for the PAC from members/employees
- The PAC then uses these pooled dollars to contribute to candidates in limited amounts (up to \$5,000/election)



Why PACs Are Turning to Direct to Candidate Fundraising

Not only are the costs of campaigns increasing, but PACs face other challenges in helping meet the growing demand for \$\$\$:

- **Competitive Disadvantage:** Not just presence of super PACs, but individuals can now give \$3,300/election.
- **Candidates Taking Anti-PAC Stances:** Many candidates don't want to take PAC money. Some are even trying to ban them.
- **Troubles At Home:** Corporations/associations – and their employees/members – face cost-cutting pressures and raising money becomes more difficult.



What is Direct to Candidate Fundraising?

Direct to Candidate fundraising is where a federal PAC solicits individuals to contribute directly to a candidate or other political committee.

Operates as a Parallel Fundraising Program for PACs:

- PACs do not receive, process, or disburse the contributed funds; and
- PACs are not limited by the restricted class/prior approval regimes.

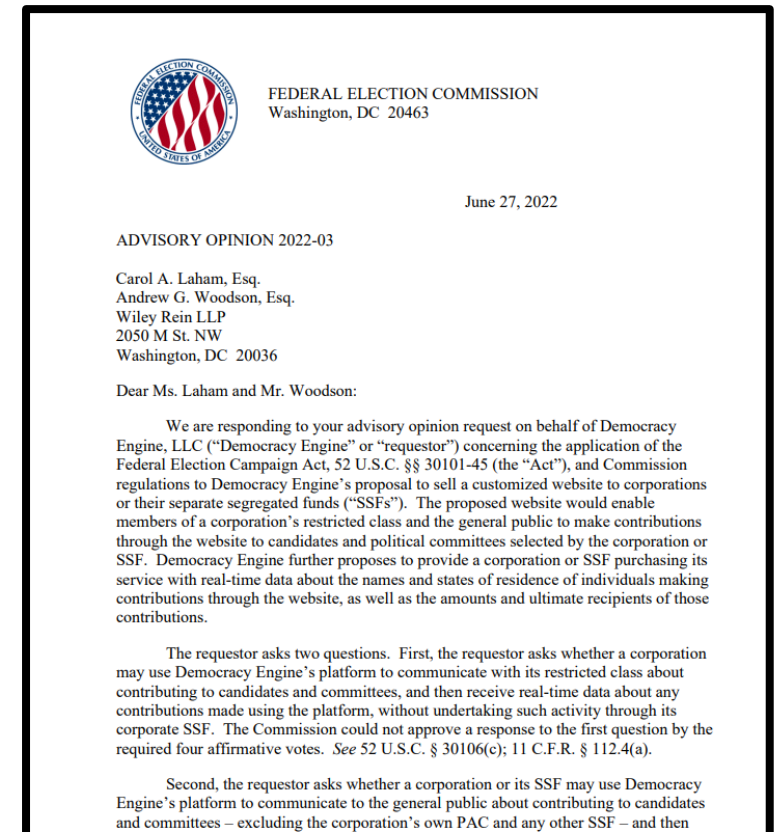


What is Direct to Candidate Fundraising?

The PAC can contract with an outside vendor for a comprehensive, bipartisan, PAC-branded web page to handle all contributions for candidates the PAC selects.

- No limits on # of candidates identified
- Can show bipartisanship in candidates

The PAC will own the associated data about who is contributing.



What the FEC Says About Direct to Candidate Fundraising

The FEC summarized its [Advisory Opinion 2022-03](#), as follows:

“A [software vendor] may create a customized website to enable its corporate separate segregated fund (SSF) client to solicit the public for contributions to candidates and political committees under the circumstances proposed in the request and may provide the SSF real-time data about the resulting contributions. While the [vendor] will host the website on its platform, the site would be the internet website of a political committee available to the general public, so it must include the required disclaimers.” [Source](#) (emphasis added)

- Built upon FEC Advisory Opinion 2011-14 (Utah Bankers Ass’n).



Utah Bankers Association AO (2011-14)

- Specially branded website of the Utah Bankers Assn's PAC
- The PAC would solicit the public to make direct candidate contributions via the website
- Recognized that the public could forward on the email communications to others




Sample Direct to Candidate Websites

[SIGN IN](#)
[REGISTER](#)

Support our Candidates!

These candidates are great on our issues!




Nancy Pelosi
U.S. House (D-CA-12)

\$5800
\$2900
\$1000

\$500
\$

MAX \$5,800




Mitch McConnell
U.S. Senate (R-KY)

\$5800
\$2900
\$1000

\$500
\$

MAX \$5,800




Kevin McCarthy
U.S. House (R-CA-23)

\$5800
\$2900
\$1000

\$500
\$
2900

MAX \$5,800



Chuck Schumer
U.S. Senate (D-NY)

\$5800
\$2900
\$1000

\$500
\$

MAX \$5,800

\$2,900.00

Kevin McCarthy \$2,900.00

CONTINUE


Divide amount equally

\$
SPLIT

Donate the max to each

MAX OUT

PRO-PROPERTY PLATFORM
POWERED BY RPAC



[Sign In](#) [Register](#) [Home](#)

SUPPORT PRO-PROPERTY RIGHTS CANDIDATES



✔ Send Your Money with a Message

The Pro-Property Platform enables you to contribute directly to pro-property rights candidates and incumbent members of Congress. You can sort, filter, and find candidates who share your pro-property rights values.

✔ Many Candidates, Your Choice

By contributing to candidates for Congress through the Pro-Property Platform, you're sending a powerful message that pro-property rights Americans are standing with them because they stand with us.

✔ Credit Goes to You and Advances Property Rights


Candidates will see that you contributed to them through the Pro-Property Platform, delivering crucial resources to their campaigns and strengthening their ties to the issues that matter most to pro-property rights Americans.

Filter by Name

Filter by Office

Filter by Party

Filter by State/Territory




Adrian Smith
U.S. House (R-NE-03)

\$10
\$15
\$25

\$50
\$100
\$

MAX \$3,300



Amy Klobuchar
U.S. Senate (D-MN)

\$10
\$15
\$25

\$50
\$100
\$

MAX \$3,300

\$0

Continue

Make this a monthly donation



Fundraising Communications about Candidates to the General Public

Fundraising communications about candidates:

Are treated as independent expenditures by the PAC
- can't tell the candidate in advance about the IE

Need to include the appropriate disclaimers

- "Paid for by..."
- "Not authorized by..."
- Website, street address, or phone number



“Thou shalt not solicit for thine own PAC...”



Importantly, this new option cannot be used by a SSF to solicit for the SSF.

None of an SSF’s restrictions on soliciting for itself were changed by this AO.

PACs Also Still Can't Solicit Foreign Nationals

General donor eligibility requirements, such as American citizenship or Green Card holder status, continue to apply.



AO 2022-03 Opens New Audiences to PACs

Under FEC Adv. Op. 2022-03, a PAC can:

- Disseminate Direct to Candidate solicitations as widely as a grassroots action alert (again, not limited by prior approval/restricted class);
- Fundraise on a publicly available webpage (versus a member only or password-protected page) for selected candidates (such as Champions or Endorsed Candidates);

>>> Website must have IE disclaimers



AO 2022-03 Opens New Audiences to PACs

Under FEC Adv. Op. 2022-03, a PAC can:

- Re-solicit Direct to Candidate donors for subsequent contributions to other candidates;
- Redirect already-existing employee/member contributors to the PAC's platform so that the donation is associated with the company or organization, allowing the creation or expansion of a recognition program around such giving.



Maximizing Use of the Contribution Limits

Under AO 2022-03, PACs can raise hard dollars for their selected candidates using their limit plus the limit of each individual donor

\$5,000 + \$3,300 + \$3,300 + \$3,300 ...



Get – and Share – the Data!

- The PAC receives real-time data on how much the program has raised for candidates.
- This information can be shared with campaigns after-the-fact.



Benefits for Participants

Those giving via direct-to-candidate platforms:

- Can share the platform with others on social media
 - > The limits on restricted class sites do not apply
- Learn more about the corporation's / trade association's preferred candidates
 - > Another opportunity for evangelism



Some Empirical Data to Consider



One Major Direct-to-Candidate Giving Program reports

\$60,757,018

given directly to re-election (and similar) committees of current Members of Congress

Nat'l Ass'n of Realtors Platform Launch

National Association of REALTORS®

Pro-Property Platform Launch

August 2024

TALKING POINTS

What is the Pro-Property Platform?

- Through the [Pro-Property Platform](#), RPAC's new low-dollar, direct-to-candidate giving program, REALTORS®, affiliates, and the public can make voluntary contributions to federal candidates and officeholders who champion property rights issues.
- The [Pro-Property Platform](#) will quantify the amount of pro-property rights dollars contributed to send a powerful message to candidates that REALTORS® and consumers are standing with them because of their commitment to advancing the American Dream of property ownership.
- The [Pro-Property Platform](#) currently includes nearly 140 congressional candidates and incumbents with proven records of prioritizing pro-property rights issues.

Who can give?

- The [Pro-Property Platform](#) is not only open to RPAC investors and NAR members but also to the public.
- NAR members who may not currently give to RPAC but are already giving to federal political candidates of their choice can give those dollars through [the Platform](#).
- Family and friends of REALTORS® can give through this portal to the pro-property cause.
- Consumers can use this portal to show federal candidates the importance of acting on high property prices, scarce inventory, and rising interest rates.

How did this initiative come about?

- Building a direct-to-candidate giving platform is an idea NAR and its volunteer leaders have long considered – and its time has come.
- Years of PAGs and high-level discussions with RPAC Trustees and other leaders informed the creation and rollout of this new tool.
- Many other trade and affinity groups have similar issue-based giving platforms.
- Approved by the RPAC Trustees earlier this year, this is the initial launch phase.

How were candidates selected for the platform?

- The candidates for the initial launch are recipients of opportunity races and President's Circle champions previously vetted and supported by RPAC Trustees.
- RPAC Trustees are discussing how candidates will be selected moving forward, ensuring that pro-property rights candidates who may not fall into these categories are also supported.

Can I promote the Pro-Property Platform on social media?

- Yes! Unlike RPAC, there is no solicitable class – the Platform is open to REALTORS®, their customers, affiliates, and the public.
- When posting about this program, please ensure your message is not connected to RPAC and that you speak broadly about supporting “pro-REALTOR®” or “pro-property rights” candidates, rather than highlighting a specific candidate.



Nat'l Retail Federation FAQ Example

Frequently Asked Questions

Do you have to be an NRF member?

No, anyone in the retail industry can get involved!

How much can I contribute to the Direct Giving Program?

No amount is too small! You can give anywhere from \$1 to the individual contribution limit

What is the cost of the average cost of an election?

In the 2022 midterms, the GOP raised \$774 million dollars in political contributions and the Democrats raised \$777 million. The average congressional campaign costs just under \$4 million dollars. The U.S. House and U.S. Senate candidates in 2022 reported raising over \$2.5 billion in political contributions.

What is the difference between the direct giving program and RetailPAC?

RetailPAC is an NRF member only benefit program. The PAC offers exclusive events for NRF members to directly share their voice to Congress, whereas NRF's Direct Giving Program is easily accessible to anyone who wants to be involved! The direct giving program is a way to immediately show your personal support for your Member of Congress with a click of a button!



Direct to Candidate vs. Conduit Programs

- The primary difference between Direct to Candidate and Conduit giving is in the level of reporting by the PAC and whether the PAC's involvement is publicly reported.
- In Direct to Candidate, while the PAC pays for the solicitation, its vendor receives and disburses the contributed funds. As a result:
 - The PAC is not acting as a conduit.
 - The PAC is not required to report the contribution and disbursement to the FEC.
 - The recipient campaign discloses a contribution as a normal donation by the donor.



Direct to Candidate vs. Conduit Programs

- By comparison, when acting as a conduit—receiving and disbursing the funds itself—the PAC must track and report every donation—even one as small as \$0.01—in the manner outlined by the FEC; the recipient reports not only the contribution, but also the PAC’s role as conduit.
- This can be an issue with a candidate who is unwilling to take corporate PAC dollars.



Additional Questions/Issues

Is the website a corporate or PAC-branded website?

- Answer: The website should be PAC-branded, not corporate.

Can I use corporate funds for the communications?

- There were not 4 votes to allow this.

Does the PAC need to pay for the costs of setting up the website with the vendor?

- This is deemed an administrative expense of the PAC.



Additional Questions/Issues



What about using corporate resources for communications to the general public?

- If using a corporate or trade association mailing list to communicate beyond the restricted class, the PAC must pay FMV for it.

Are there different requirements for corporations and trade associations when using direct to candidate fundraising?

- No, everyone is treated the same for these sorts of solicitations.

Additional Questions/Issues (cont.)

Can PACs solicit contributions for candidate events from other federal PACs, or only from individuals?

- The opinion does not address PACs hosting fundraisers.

Can I tell the campaigns *in advance* about our efforts to solicit contributions from the public?

- No.

Can I tell the campaigns *afterwards* how much we've raised through this program?

- Yes!



Additional Questions/Issues (cont.)



Can the PAC still make a \$5,000 contribution to the campaign that we're raising money for via the PAC-branded site?

- Absolutely.

Am I allowed to “shake down” employees/members into contributing via the site?

- No, various laws still prohibit that.

Additional Questions/Issues (cont.)

Can I solicit for someone else's SSF?

- No.

Can I do this with state candidates?

- This presentation, and the request, only addresses contributions to federal candidates and committees regulated by the FEC.



Summary: FEC Advisory Opinion 2022-03 Provides PACs a Powerful Tool

Direct to Candidate fundraising under FEC Adv. Op. 2022-03 can be:

- A powerful fundraising tool;
- A way to avoid certain restricted class/prior approval restrictions that apply when fundraising for the SSF; and
- A means to collect valuable data about PAC contributors.



Presentation Links

- Federal Election Commission Summary of Advisory Opinion 2022-03

<https://www.fec.gov/updates/ao-2022-03/>

- Federal Election Commission Advisory Opinion 2022-03

<https://www.fec.gov/files/legal/aos/2022-03/2022-03.pdf>

- Federal Election Commission Advisory Opinion 2011-14

<https://www.fec.gov/files/legal/aos/2011-14/AO-2011-14.pdf>

