

## Resolved Interaction

Interaction Number: 13489

<b>Initiation Date*:</b>	2017-09-28
<b>Title*:</b>	Payments for legal expenses.
<b>Question*:</b>	Whether and to what extent a national political party committee (such as the Republican National Committee (RNC)) can use a separate fund established under 52 USC § 30116(a)(9) to pay an employee's legal expenses, including White House employees?
<b>Update:</b>	
<b>Categories*:</b>	Gifts from Outside Sources
<b>Origin Of Interaction*:</b>	Phone
<b>Source*:</b>	Non-Agency For-Profit
<b>First Name:</b>	Benjamin
<b>Last Name:</b>	Ginsberg
<b>Title:</b>	
<b>Position:</b>	Other Attorney
<b>Email:</b>	bginsberg@jonesday.com
<b>Phone:</b>	202-879-3773
<b>Other Contact Notes:</b>	Jones Day
<b>Assignment:</b>	David J. Apol, Rachel K. Dowell, Seth Jaffe
<b>Watching:</b>	
<b>Temporary Notes:</b>	
<i>created by:</i>	<i>Rachel K. Dowell</i>

### Resolution Information

<b>Resolution Date*:</b>	2017-09-28
<b>Resolution Category*:</b>	Resolved
<b>Response*:</b>	<p>We advised the Jones Day attorneys that this is primarily a question for the FEC. We discussed an earlier call we had with the FEC, and summarized the following points: 1) The FEC has not issued regulations or advisory opinions concerning 52 USC § 30116(a)(9); 2) The FEC personnel expressed her opinion that it would be "risky" to use FEC opinions related to the use of individual campaign funds for legal expenses when analyzing the proper use of political party committee funds, and cannot guarantee that these opinions will apply to the use of political party committee funds for legal expenses; and 3) The FEC personnel recommended that individuals should seek an advisory opinion from them on this question.</p> <p>We also advised that, if this is a permissible use under 52 USC § 30116(a)(9), then the question must also be analyzed under OGE gift rules. Dave Apol advised that, although OGE normally defers to agencies on prohibited source determinations, OGE considers the Republican National Committee (RNC) to be a prohibited source for White House employees pursuant to 5 CFR 2635.203(d). This determination is based on, among other considerations, an Ethics Pledge waiver under EO 13770, section 3, issued to White House Commissioned Officers allowing them to communicate and meet with the RNC (and other covered political organizations like the National Republican Senatorial and Congressional Committees) on broad policy matters and PMGAs in their official capacity. The waiver notes that "the Administration has an interest in interacting with the Covered Political Organizations on issues of importance to the Administration" and disqualification "would limit the ability of the White House Office to effectively carry out Administration priorities." We also informed the Jones Day attorneys that, in a 9/21/17 phone call with White House personnel, the White House did not argue with OGE's determination that the RNC is a prohibited source for White House employees.</p> <p>The Jones Day attorneys expressed disagreement with OGE's prohibited source determination. We told them that they can speak to the White House about this determination. If the White House wishes to make a case that the RNC is not a prohibited source for White House employees, they would need to, at a minimum, provide the following information to OGE: 1) a summary of contacts</p>

	between the RNC and the White House; and 2) an explanation of the purpose of the Pledge waiver referenced above. (Assigned to: David J. Apol; Rachel K. Dowell; Seth Jaffe)
<b>Complexity (level):</b>	5 <a href="#">[Click to view/hide complexity guidelines]</a>
<b>Time Spent (hours):</b>	1-4 hours
<b>Contributor:</b>	
<input type="button" value="reopen"/>	

Interaction History Log	
Closed	09/28/2017 05:00:36 PM by Rachel K. Dowell
Create	09/28/2017 04:01:56 PM by Rachel K. Dowell
Now Assigned: Rachel K. Dowell Seth Jaffe David J. Apol	09/28/2017 04:01:56 PM by Rachel K. Dowell

Division(s) assigned: GCLPD