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April 29, 2013

Via Certified Mail

Commission Secretary
Federal Election Commission
999 E Street, NW
Washington, DC 20463

**Re: Elizabeth Crowley for Congress
Request for Consideration of a Legal Question**

Dear Commissioners:

We submit this Request for Consideration of a Legal Question on behalf of Elizabeth Crowley for Congress ("Committee") regarding certain redesignations of contributions received in connection with the 2012 General Election for New York's 6th Congressional District:

We request consideration by the Federal Election Commission ("FEC" or "Commission") of the following legal question:

Whether FEC regulation 11 CFR 110.1 (b)(5) permits the redesignation of contributions received in connection with the 2012 General Election by the authorized campaign committee of a candidate for the House of Representatives, after losing the Primary Election, to non-federal campaign committees of the same candidate upon obtaining authorization from contributors?

Ms. Crowley was a candidate for the 2012 Primary Election for the 6th Congressional District of New York. While a candidate for the House of Representatives, Ms. Crowley was also an elected Member of the New York City Council in New York City's 30th Council District and the elected female District Leader in New York State's 38th Assembly District. Prior to beginning her congressional candidacy, Ms. Crowley had anticipated running for reelection as both Member of the New York City Council (in the 2013 elections) and District Leader (in the 2012 elections); in order to support of both of those candidacies, Ms. Crowley had previously established local campaign committees, that were registered with and reported to local campaign finance regulatory bodies.

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In order to support her federal candidacy, Ms. Crowley's authorized campaign committee accepted contributions for both the 2012 Primary and General Elections, in accordance with the restrictions imposed on such contributions by the Federal Campaign Finance Act ("FECA") and FEC's regulations. After losing the Primary Election, Ms. Crowley terminated her federal candidacy, and the Committee undertook a winding down of its operations. One part of such winding down was the disposition of contributions accepted by the Committee for the General Election.

Pursuant to FEC Regulation 11 CFR 102.9(e)(3), once Ms. Crowley lost the Primary Election, she was prevented from being a candidate for 6th Congressional District in the General Election, and the contributions she received in anticipation of that candidacy needed to be refunded, redesignated in accordance with 11 CFR 110.1(b)(5), or reattributed in accordance with 11 CFR 110.1(k)(3).

With respect to the contributions the Committee had received for the General Election, the Committee:

- 1) contacted each contributor;
- 2) notified the contributor of the impending termination of the Committee; and
- 3) offered the contributor the option of a refund of his or her contribution or the ability to redesignate the contribution to a different (New York State) election.

As previously indicated, Ms. Crowley, at the time of the refunds and redesignations, was a candidate for New York State district leader in the September, 2012 New York State democratic primary election and was an incumbent Member of the New York City Council, eligible for reelection in 2013. For contributors that chose to redesignate their contributions to a different election, the Committee obtained signed authorization forms that expressly authorize such redesignations.

Indeed, several of the instant redesignated contributions were in fact contributions, originally made to Ms. Crowley's New York City Council campaign account that were refunded from that account to the contributors and then resolicited for contribution to the federal campaign account. After the Ms. Crowley's defeat in the Primary Election, those contributions were redesignated to those very same contributors, after obtaining their authorization. Clearly, both from the fact that several of the redesignated contributions were originally made to the non-federal campaign accounts to which they were redesignated subsequent to the Primary Election, and from the fact that the campaign obtained authorization from each contributor before redesignating his or her contribution to one of Ms. Crowley's non-federal campaign account, the campaign never converted contributions it received for the General Election to a use not anticipated or authorized by the contributors.

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The Committee never treated the contributions designated for the General Election as the Committee's funds. At all times, General Election funds were segregated from Primary Election funds, not used in connection with the Primary Election, and not converted to personal use. Indeed, by contacting contributors, offering them a refund, and seeking affirmative authorization of any redesignation, the Committee believed itself to be in full compliance with FEC regulations. Ultimately, contributions totaling \$16,252 were refunded to contributors that have requested refunds. Eight contributions, totaling \$19,950 were redesignated to different state and local election campaign accounts of Ms. Crowley.

In effect the Committee took steps to efficiently combine the process of issuing refunds of all General Election contributions and resoliciting new state and local election contributions from those same contributors. It is very clear that had those steps not been combined into one that the Committee would not be subject to the current compliance inquiry. Attached to this submission is a chart ("Exhibit A") that shows which contributions were refunded and which contributions were redesignated to the candidate's state and local campaign committee accounts. Should you need any additional backup documentation demonstrating the refunds, written authorizations for redesignation, and transfer of funds, the Committee is happy to provide it.

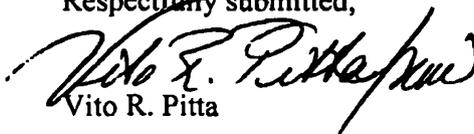
Should the Commission determine that the redesignations were not permissible; the Committee would request the ability to reverse the transactions and cure anything that the Commission believes to be a violation. Ms. Crowley was a first time candidate that acted in good faith in attempting to adhere to FEC regulations. Indeed, in its effort to comply with the law and regulations, the Committee relied upon FEC Advisory Opinion 2012-06 which addressed a materially indistinguishable set of facts. The Opinion was in response to a request from Rickperry.org. In Advisory Opinion 2012-06, the FEC, considering redesignations of contributions accepted for the Presidential General Election to Governor Perry's state campaign committee, chose not to prohibit the course of action. Beyond the FEC's Advisory Opinion 2012-06, we believe the procedure implemented by the Committee comports with FECA and FEC regulations, as well as the policy that governs them. The FEC has expressly acknowledged that redesignations to federal campaign committees for future elections for federal office are permissible. See Advisory Opinion 2008-04. There is nothing in FECA or in FEC regulations that requires a redesignation to a campaign committee for state office be treated differently.

FEC regulation 11 CFR 102.9(e)(3) provides, "If a candidate is not a candidate in the general election, any contributions made for the general election shall be refunded to the contributors, redesignated in accordance with 11 CFR 110.1(b)(5) or 110.2(b)(5), or reattributed in accordance with 11 CFR 110.1(k)(3), as appropriate." Although FEC regulations define election as one for federal office, the rationale for the above-cited regulation suggests that, in the context of a redesignation (i.e. obtaining the express authorization of the original contributor to use funds contributed for a different election), "election" should be construed broadly to encompass any future election.

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Thank you in advance for your consideration of this matter.

Respectfully submitted,


Vito R. Pitta

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Encl.

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EXHIBIT A

<i>Refunded Contributions Made</i>
\$1,500 to Mr. John Farrell
\$500 to IUPAT PAC
\$1,752 to Mr. Brendan Murray
\$2,500 to UFA Federal FIREPAC
\$5,000 to NYS Laborers PAC
\$2,500 to Sheet Metal Workers Local 28 PAC
\$2,500 to Sheet Metal Workers International Union PAC

<i>Contributions Redesignated to Friends of Elizabeth Crowley</i>
\$4,500 from IUPAT PAC
\$2,500 from UFA Federal FIREPAC
\$1,000 from Metal Lathers Local 46 PAC

<i>Contributions Redesignated to Elizabeth Crowley 2013</i>	
\$2,500 from Mr. James Nederlander	
\$2,500 from Mr. James Bell	Contributor had previously contributed to NYC Council campaign account and \$2,500 was refunded to contributor and resolicited by FEC campaign account.
\$2,500 from Mrs. Margaret Bell	Contributor had previously contributed to NYC Council campaign account and \$2,500 was refunded to contributor and resolicited by FEC campaign account.
\$1,000 from Mr. John Farrell	Contributor had previously contributed to NYC Council campaign account and \$2,500 was refunded to contributor and resolicited by FEC campaign account.
\$1,500 from Mr. John Rappaport	
\$1,950 from Metal Lathers Local 46 PAC	Contributor had previously contributed to NYC Council campaign account and \$2,500 was refunded to contributor and resolicited by FEC campaign account.

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