MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson
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Subject: Draft AO 2013-15 (Conservative Action Fund)

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12:00 pm (Eastern Time) on November 13, 2013.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to http://www.fec.gov/law/draftaos.shtml.

Attachment
Dear Messrs. Backer and Kamenar:

We are responding to the advisory opinion request you submitted on behalf of Conservative Action Fund (“CAF”) concerning CAF’s acceptance and disbursement of Bitcoins under the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. The Commission concludes that CAF may accept Bitcoins as in-kind contributions under valuation, reporting, and disbursement procedures, as described below. CAF may not, however, make disbursements using Bitcoins. Instead CAF must sell its Bitcoins and deposit the proceeds in its campaign depositories before using the funds.

Background

The facts presented in this advisory opinion are based on your letter dated August 13, 2013 (“AOR”), email dated August 26, 2013 (“AOR Supplement”), and public disclosure reports filed with the Commission.

CAF is a nonconnected political committee that registered with the Commission in May 2011. CAF has notified the Commission that it maintains a non-contribution
account.¹ CAF wishes to accept contributions in Bitcoins for both its contribution and
non-contribution accounts.

Bitcoin is a privately issued “digital currency” that was created in 2009. U.S.
Gov’t Accountability Office, GAO-13-516, Virtual Economies and Currencies 5 (2013),
purely digital, “exist[ing] only as a long string of numbers and letters in a user’s
computer file.” Id. Nonetheless, the requestor states that Bitcoins “act as real world
currency in that users pay for real goods and services . . . with [B]itcoins as opposed to
U.S. dollars or other government issued currencies.” Id. A user transfers Bitcoins from
the user’s online Bitcoin “wallet” either to other users, to merchants who accept Bitcoins
as payment, or through “[t]hird-party exchanges [that] allow [B]itcoin users to exchange
their [B]itcoins back to government-issued currencies.” Id. In these ways, Bitcoin users
can engage in online transactions without using a bank or other third-party financial
institution. AOR at 1. Bitcoin transfers are made online and are nearly instantaneous.

Id.

Bitcoins’ values are determined largely through the exchanges on which many of
these transfers are conducted. There are numerous online exchanges on which potential
buyers and sellers of Bitcoins post “bid” and “ask” prices akin to those on securities
(collecting Bitcoin exchange data). The value of Bitcoins “has been volatile”: Between

¹ See Press Release, FEC Statement on Carey v. FEC: Reporting Guidance for Political
Committees that Maintain a Non-Contributing Account (Oct. 5, 2011),
May 2012 and May 2013, the value of one Bitcoin ranged between $5 and $237. GAO Report at 8.²

CAF proposes to offer an online contribution page for those wishing to make contributions to CAF using Bitcoins. CAF represents that it intends to use a “Bitcoin online merchant solution, such as BitPay,” to process, accept, and clear Bitcoin contributions. AOR at 3. Under the BitPay model, a contributor could choose to denominate her contribution either in Bitcoins (e.g., contribute “10 Bitcoins”) or in U.S. dollars with a conversion rate established by BitPay at the time of the transaction (e.g., contribute “$1200 in Bitcoins” at a rate of “1 Bitcoin (BTC) = 124 USD”). Under the BitPay model, CAF could choose whether to receive the contribution in the form of Bitcoins transferred to CAF’s Bitcoin wallet, or in the form of U.S. dollars transferred to CAF’s bank account. See Bitcoin Transaction Processing, https://bitpay.com/bitcoin-direct-deposit (last visited Sept. 25, 2013). If CAF chooses to receive the dollar equivalent of the Bitcoin contribution, that amount will be forwarded to CAF’s bank account within one business day of the BitPay transaction. Id.

To comply with the relevant provisions of the Act and Commission regulations — such as those regarding contribution limits and recordkeeping requirements — CAF represents that it would acquire and record the “relevant” information regarding each contributor who makes a contribution to CAF using Bitcoins, such as the contributor’s name, address, occupation, and employer, as applicable. AOR at 3; AOR Supplement.

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CAF wishes to retain the Bitcoins it receives in its Bitcoin wallet for later
disposition. AOR at 3. CAF intends to either sell Bitcoins at a later date, spend them
directly to purchase goods and services, or use them to make contributions to other
political committees. Id.

Questions Presented

Based on the facts presented above, the requestor asks 24 questions. These
questions generally fall into three categories: (1) whether the requestor may accept
Bitcoins as monetary and/or in-kind contributions; (2) how the requestor should deposit,
value, and report contributions made using Bitcoins; and (3) whether the requestor may
disburse Bitcoins to pay for goods or services or to make contributions to other
committees.

Legal Analysis and Conclusions

As discussed in more detail below, the Commission concludes that Bitcoins are
not “money” within the meaning of Commission regulations, but that the requestor may
generally accept Bitcoins as in-kind contributions under valuation, reporting, and
disbursement procedures similar to those that the Commission has previously approved
for other in-kind contributions. The requestor may not, however, make disbursements
using Bitcoins directly from a Bitcoin wallet because the Act and Commission
regulations require such disbursements to be made from a “campaign depository.”

A. Bitcoins as In-Kind Contributions

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3 This section addresses CAF’s questions 1 (“May CAF lawfully accept Bitcoins as a monetary
contribution?”), 2 (“May CAF lawfully accept Bitcoins as an in-kind contribution?”), and 3 (“May CAF
decide how to treat these contributions?”).
The Act defines a “contribution” to include “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”  2 U.S.C. § 431(8)(A)(i); see also 11 C.F.R. § 100.52(a). Commission regulations identify two general categories of contributions: “money” and “anything of value.” See 11 C.F.R. § 100.52(c), (d). “[M]oney” includes “currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instruments payable on demand.” 11 C.F.R. § 100.52(c). “Anything of value” includes “all in-kind contributions.” See 11 C.F.R. § 100.52(d)(1).4

Bitcoins do not meet the Commission’s regulatory definition of “money.”

Bitcoins are not currency of the United States or any other nation,5 and they are not negotiable instruments like the checks and money orders listed in 11 C.F.R. § 100.52(c).

The Uniform Commercial Code defines a “negotiable instrument” as “an unconditional promise or order to pay a fixed amount of money” payable to a bearer or order on demand or at a definite time. U.C.C. § 3-104(a); see also U.C.C. § 1-201(b)(24) (defining “money” as “a medium of exchange currently authorized or adopted by a domestic or foreign government”). Unlike checks and money orders, Bitcoins do not grant their holders an “unconditional” right to be paid in currency. Instead, Bitcoins may

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5 See GAO Report at 5 (“Unlike U.S. dollars and other currencies, [B]itcoin is not government issued and does not have a physical coin or bill associated with its circulation, such as a Federal Reserve note”); U.S. Dep’t of the Treasury, FIN-2013-G001, Financial Crimes Enforcement Network, Guidance: Application of FinCEN’s Regulations to Persons Administering, Exchanging, or Using Virtual Currencies 1 (2013), available at http://fincen.gov/statutes_regs/guidance/pdf/FIN-2013-G001.pdf (concluding that “virtual currency” is not “currency,” defined under FinCEN regulations as “the coin and paper money of the United States or of any other country,” because computer or virtual currency “does not have legal tender status in any jurisdiction”).
be exchanged for currency only to the extent that another private party is willing to buy them on an exchange or in a peer-to-peer transaction. Additionally, Bitcoins do not represent a “fixed amount of money” in the currency of any nation, as their value constantly fluctuates relative to government-backed currencies.6

Thus, because Bitcoins are neither the currency of any country nor negotiable instruments, Bitcoins are not “money” under Commission regulations. Therefore, a political committee that receives Bitcoin contributions may not treat them as monetary contributions.7

Nothing in the Act or Commission regulations, however, prohibits a political committee from accepting Bitcoins as in-kind contributions. The Commission has issued numerous advisory opinions addressing permissible contributions of non-monetary items “of value,” such as public stocks, private stocks, commodities, and computer equipment.

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6 CAF cites a recent opinion in which a federal magistrate judge concluded that Bitcoins are a “currency or form of money” for purposes of securities law. See SEC v. Shavers, No. 4:13-CV-416, 2013 WL 4028182, at *2 (E.D. Tex. Aug. 6, 2013). The Shavers opinion, which appears to be the first federal or state judicial opinion to examine Bitcoins, found that Bitcoins are money because they “can be used to purchase goods or services” and “can also be exchanged for conventional currencies.” Id. As noted above, however, the Commission’s regulatory definition of “money” is more limited, encompassing only government-issued currencies and negotiable instruments. Because Shavers applied a significantly broader definition of “money” than the Commission has promulgated, that decision is inapposite here. The Commission expresses no opinion regarding the application of federal securities law, tax law, or other law outside the Commission’s jurisdiction to CAF’s proposed activities.

CAF and a commenter on the request (the Bitcoin Foundation) urge the Commission to allow CAF the discretion to determine for itself whether to treat Bitcoins as monetary or in-kind contributions, citing Advisory Opinions 1982-08 (Barter PAC) and 1980-125 (Cogswell). In Advisory Opinion 1982-08 (Barter PAC), however, the Commission merely observed that the “credit units” at issue in that opinion both “resembled in-kind contributions” and were “like cash.” Id. at 4. The Commission did not state that the requestor would have the option of how to treat them under the Act and Commission regulations. And in Advisory Opinion 1980-125 (Cogswell), the Commission’s conclusion that the requestor could decide how to treat U.S. silver dollars was premised on the fact that they were both money (currency) and commodities (on the silver market). Id. at 2. That reasoning does not apply here because Bitcoins, unlike silver dollars, are not the currency of any nation.

7 In light of this conclusion, the Commission does not answer CAF’s questions 5-11, which are premised on “treating Bitcoins as monetary contributions.”

Although the receipt of contributions in Bitcoin form presents certain unique considerations with regard to complying with the Act’s disclosure requirements, none of these bars the acceptance of Bitcoins, and CAF states that it will comply with all applicable disclosure requirements in the context of in-kind contributions made using Bitcoins. See Advisory Opinion 2012-30 (Revolution Messaging) (permitting contributions by text message and noting requestor’s indication that it would obtain necessary contributor information).

In sum, CAF may accept Bitcoins as in-kind contributions.

B. Bitcoin Contribution Deposits, Valuation, and Reporting

1. Deposits

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8 The Act and Commission regulations impose certain requirements on political committee treasurers, including the responsibilities to keep accounts of the requisite contributor information and to “examin[e] all contributions received for evidence of illegality.” 11 C.F.R. § 103.3(b); see also 2 U.S.C. § 432(c)(1)-(3), 11 C.F.R. § 110.4. That is, a political committee is “responsible for determining the eligibility of its contributors.” Advisory Opinion 2012-26 (Cooper, m-Qube, Inc., and ArmourMedia, Inc.) (discussing identification of contributors by text message).

Bitcoin is a potentially anonymous or pseudonymous method of exchange, “since all that is needed to complete a transaction is a [B]itcoin address, which does not contain any personal identifying information.” GAO Report at 8. As noted above, CAF states that it will collect the information required of its contributors, such as name, address, and employer. CAF does not specify how it will obtain that information, and it does not ask whether its intended method of doing so is consistent with the Act and Commission regulations. For example, CAF does not indicate how it intends to proceed when a pseudonymous online “identity” associated with a Bitcoin user diverges from that user’s actual identity. For purposes of this advisory opinion, the Commission assumes that CAF will comply with its disclosure obligations and its responsibility to “determin[e] the eligibility of its contributors,” and nothing in this advisory opinion should be construed to relieve CAF of those requirements.

9 This section addresses CAF’s questions 4 (“Do these answers, or answers to subsequent questions, change depending upon whether the contribution is made to a [contribution] or non-[contribution] account?”) and 14 (“Can CAF hold the Bitcoins indefinitely in either its virtual wallet, or another account as the FEC deems fit, for disposition at a later time?”).
Commission regulations require a political committee to deposit all of its receipts into a campaign depository within 10 days of receipt. 11 C.F.R. § 103.3(a); see also 2 U.S.C. § 432(h). A campaign depository is an account at a state bank, a federally chartered depository institution (including a national bank), or a depository institution with accounts insured by certain federal agencies. 2 U.S.C. § 432(h); 11 C.F.R. § 103.2.

Under the BitPay model described above, if CAF opts to receive the dollar equivalent of a Bitcoin contribution forwarded to its bank accounts, the transaction would comply with the deposit requirement as long as the dollars are deposited into campaign depositories within 10 days. If, however, CAF opts to receive Bitcoins into its Bitcoin wallet, it will not be holding the Bitcoins in a campaign depository. The Commission has concluded that securities accounts and similar brokerage accounts do not qualify as campaign depositories, even if the account-holder can disburse funds directly from them. See Advisory Opinion 2000-30 (pac.com) (securities account), Advisory Opinion 1986–18 (Bevill) (“cash management account”). Like those accounts, a Bitcoin wallet is not held at a state or federal bank, and it is not insured by any government agency, so it does not meet the criteria of a “campaign depository.” See 2 U.S.C. § 432(h).

Notwithstanding these campaign-depository provisions, section 104.13(b) of the Commission’s regulations establishes procedures for political committees to receive and report contributions of “stocks, bonds, art objects, and other similar items to be liquidated” at a later date. The Commission has concluded that this provision implicitly allows a committee to accept such assets as contributions and hold those assets until later sale (for more than 10 days) as investments outside campaign depositories. Advisory Opinion 2000-30 (pac.com) at 8 (citing Advisory Opinions 1989-06 (Boehlert) and 1980-
For example, when a committee receives stock as a contribution, the Commission does “not require the liquidation of the stock within any set time period after its receipt by the committee; nor [does] it require the deposit of the proceeds in the committee’s depository account within any prescribed period.” Id. at 5 (discussing Advisory Opinion 1989-06 (Boehlert)).

As noted previously, Bitcoins are not “money,” have no fixed value in any nation’s currency, and might appreciate or depreciate over time. In these key respects, Bitcoins are “similar items” to the “stocks, bonds, [and] art objects” described in C.F.R. § 104.13(b). Thus, for purposes of campaign-depository requirements, the Commission concludes that in-kind contributions of Bitcoins are governed by section 104.13(b). Like securities that a political committee may receive into and hold in a brokerage account, Bitcoins may be received into and held in a Bitcoin wallet until the committee liquidates them.10

2. Valuation

10 This conclusion does not depend on whether the Bitcoins are received into a contribution account or a non-contribution account. Provided that the Bitcoin contributions are not from prohibited sources, CAF may divide its Bitcoin receipts between its contribution and non-contribution accounts as it may other contributions. See http://www.fec.gov/press/Press2011/20111006postcarey.shtml; AOR question 9 (“May CAF bifurcate its treatment of a Bitcoin contribution between its [contribution] or [non-contribution] accounts?”). If, however, CAF opts to receive and hold Bitcoins, it must maintain separate Bitcoin wallets for its contribution and non-contribution accounts. See http://www.fec.gov/press/Press2011/20111006postcarey.shtml (requiring committees to segregate accounts).

11 This section addresses CAF’s questions 12 (“If CAF treats Bitcoins as an in-kind contribution under 11 C.F.R. §104.13(a)(1), how should CAF value the Bitcoins: based on their market price, or based on another formula?”), 13 (“When should CAF value the Bitcoins received on a certain day: at the exact moment the Bitcoins are received in CAF’s wallet, at the time general stock markets close that day, or, since trade in Bitcoins does not ‘close’ at day’s end, at midnight, or at another time?”), and 15 (“If CAF issues a refund of an excessive contribution in Bitcoins, how many Bitcoins should CAF refund: the excess amount which reflects the value of Bitcoins based on the date of their receipt, an amount that reflects the value of Bitcoins at the time of refund, or another amount?”).
Bitcoin contributions should be valued as in-kind contributions. The amount of an in-kind contribution is the usual and normal value of the contribution on the date received.\(^\text{12}\) 11 C.F.R. § 104.13(a); Advisory Opinion 1989-06 (Boehlert) (applying this method of valuation to contribution of stock).

The proper method of determining this valuation depends upon the type of item being contributed. For example, the Commission has concluded that the value of a contribution of publicly traded stock is the closing price of the stock on the day of the Committee’s receipt. Advisory Opinion 2000-30 (pac.com). If the stock is traded on more than one exchange, “[t]he price would be the price of that particular class of [publicly traded] stock on the exchange on which the stock is principally dealt.” Id. at 5.

For items whose value cannot readily be determined through a market mechanism, such as private stocks, the Commission has instructed committees to look to other outside valuation methods, such as tax-related calculations and independent appraisals. See Advisory Opinion 2000-30 (pac.com) at 7.

Like some public stocks, Bitcoins are traded on multiple public exchanges. Although Bitcoins do not have closing times or prices — because Bitcoin exchanges operate 24 hours per day, see AOR at 7 — the going rate for Bitcoins can be determined on a specific exchange at any given moment. This distinguishes Bitcoins from private stocks, whose valuation is inherently more difficult and subjective. Accordingly, despite

\(^{12}\) For the purposes of contribution limits, “a contribution [is] considered to be made when the contributor relinquishes control.” 11 C.F.R. § 110.1(b)(6). The Commission has previously determined that an online contribution by credit card is “made” on the date that the credit card number is presented online and “received” on the date that the committee is notified of the contributor’s action. See, e.g., Advisory Opinion 2008-08 (Zucker); Advisory Opinion 1995-09 (NewtWatch) at 3. Following that reasoning, the Commission concludes that a Bitcoin contribution is “made” when the contributor authorizes the transfer of Bitcoins, and it is “received” when the committee is notified of the contribution. See Comment on AOR by Bitcoin Foundation at 3-4 (describing transfer-validation process).
the lack of a singular daily “closing price,” the valuation of Bitcoins is most akin to that
of stocks that are publicly traded on multiple exchanges.

The availability of public exchange rates provides a reliable and objective method
of valuing Bitcoin contributions. Thus, the Commission concludes that a political
committee that receives a contribution in Bitcoins should value that contribution based on
the market value of Bitcoins at the time the contribution is received. To assess this
market value, the committee should first rely on any contemporaneous determination
provided by the entity that processes the Bitcoin contribution. If that processor provides
an exchange rate for the specific transaction in question — or if the committee opts to
receive a Bitcoin contribution from its processor in the form of dollars — the committee
should use this rate or dollar amount to value the contribution. ¹³

If, however, a contributor makes a contribution through an entity that does not
provide an exchange rate for that contribution, then the recipient committee may value
the contribution using another reasonable exchange rate of Bitcoins for dollars. For an
exchange rate to be reasonable, it should be a publicly available rate of Bitcoins traded
for dollars on a high-volume public Bitcoin exchange that is open to transactions within
the United States. ¹⁴ For each Bitcoin transaction, the committee should use the rate
established by the chosen exchange closest in time to receipt of the in-kind contribution

¹³ For example, as noted above, BitPay permits a Bitcoin contributor to denominate a transaction in
dollars. Thus, if BitPay were to notify the committee that a contributor had sent $1000 in the form of 7.25
Bitcoins, the committee would value the contribution at $1000, regardless of whether the committee then
opted to receive the contribution in dollars or in Bitcoins.

and local exchanges in several currencies).
for the transaction being valued.\footnote{See id. (showing some high-volume exchanges publishing rates every 15 minutes and other low-volume exchanges publishing rates daily).}

Upon being valued, an in-kind contribution made using Bitcoins might exceed the contributor’s annual contribution limit of $5,000. \footnote{This section addresses CAF’s questions 16 (“If CAF treats Bitcoins as a commodities to be liquidated and sells them on the market, are Bitcoins valued based on their date received, 11 C.F.R. § 104.13(a)(1), and, if so, when are the Bitcoins ‘received,’ and how should CAF calculate their value?”), 21 (“For reporting purposes, how and when should CAF calculate the Bitcoins’ value, and should CAF report the Bitcoins as a contribution and an expenditure under 11 C.F.R. § 104.13(a)(2), or should CAF follow the reporting guidelines in 11 C.F.R. § 104.13(b)’”), 22 (“If CAF sells Bitcoins to a known purchaser, must CAF treat the sale as a contribution and follow the reporting requirements in 11 C.F.R. § 104.13(b)(2)?”), 23 (“If CAF sells the Bitcoins to an unknown purchaser, will the purchaser not be deemed to have made a contribution to CAF, and should CAF follow the reporting requirements outlined in AO 2000-30 (pac.com)?”), and 24 (“How should CAF report the expenses, if any, relating to the sale of Bitcoins, such as commissions or fees?”).} See also 11 C.F.R. §§ 110.1(d), 110.2(d). The Commission has previously determined that a committee may return an excessive in-kind contribution “either in the form given,” or in a dollar amount “equal to the excess” of the in-kind contribution when it was received. Advisory Opinion 1980-125 (Cogswell); see also 11 C.F.R. § 103.3(b)(3). Accordingly, if an in-kind contribution made using Bitcoins would exceed the contributor’s limit, the committee may return the excessive amount either by refunding the quantity of excessive Bitcoins, or by refunding a dollar amount equal to the excessive portion of the contribution, as calculated at the time of the in-kind contribution is received.

3. **Reporting**

Bitcoins are in-kind contributions that the committee will ultimately sell (rather than services it receives or goods to be consumed). Accordingly, the reporting of in-kind contributions made using Bitcoins is governed by 11 C.F.R. § 104.13(b), which addresses the reporting of in-kind contributions “to be liquidated.”
Under this regulation, as explained in Advisory Opinions 2000-30 (pac.com) and 1989-06 (Boehlert), if a committee receives a contribution in Bitcoin form and does not liquidate the Bitcoins in the same reporting period, the committee should first report the contribution during the reporting period in which it is received. The initial receipt of Bitcoins should be reported on Schedule A supporting Line 11(a)(i) (Contributions from Individuals) as a memo entry that includes the fair market value of the contribution (as described above) and the required identification of the contributor. See 11 C.F.R. § 104.13(b)(1); Advisory Opinion 1989-06 (Boehlert), Attachment A (providing sample form for reporting fair market value of in-kind contribution of stock to candidate’s committee); Advisory Opinion 2000-30 (pac.com) at 8.\textsuperscript{17}

Any usual and normal fees deducted by the Bitcoin processor from an in-kind contribution made using Bitcoins prior to its transfer to the recipient committee should not be deducted from in the reported value of the contribution. That is, “the Committee must treat the full amount of the donor’s contribution as the contributed amount for purposes of the limits and reporting provisions of the Act, even though the Committee will receive a lesser amount because of [the] fees.” Advisory Opinion 1995-09 (NewtWatch) at 3. The committee should report the usual and normal fees and commissions that it pays an online processor as operating expenditures pursuant to 2 U.S.C. §§ 432(c)(5), 434(b)(5)(A) and 11 C.F.R. §§ 102.9(b), 104.3(b)(3), (4). See Advisory Opinion 1995-09 (NewtWatch) at 3.

\textsuperscript{17} If the committee opts to immediately liquidate the Bitcoin contribution and receive its equivalent in dollars from the processor, the committee should report the contribution as in Advisory Opinion 1989-06 (Boehlert), Attachment C, but on Schedule A supporting Line 11(a)(i), substituting the name of the Bitcoin processor for the name of the stock broker.
In addition to the committee’s initial receipt of the in-kind contribution made using Bitcoins, the committee should also report its subsequent liquidation of the Bitcoins. The requirements for such reporting at the time of the sale depend on whether the purchaser is known or unknown to the committee. If the committee sells the Bitcoins directly to a purchaser, and therefore knows the identity of that purchaser, the purchase is itself considered to be a contribution. See 11 C.F.R. § 104.13(b)(2); Advisory Opinion 1989-06 (Boehlert) at 2; Advisory Opinion 2000-30 (pac.com) at 8-9. In that case, the committee should report the dollar amount of the purchase as a monetary contribution by the known purchaser on Schedule A supporting Line 11(a)(i) and should include the identifying information required by section 104.13(b)(2). The committee should also use memo text to indicate the entry relates to the purchase of Bitcoins. In addition, the committee should again identify (as a memo entry on Schedule A) the original contributor of the Bitcoins and the fair market value of that in-kind contribution at the time it was received. See 11 C.F.R. § 104.13(b)(2)(ii); Advisory Opinion 1989-06 (Boehlert), Attachment B.

If the committee sells the Bitcoins through an established market mechanism where the purchaser is not known, the purchaser is not considered to have made a contribution to the committee. See Advisory Opinion 1989-06 (Boehlert) at 2; 11 C.F.R. § 104.13(b)(2). In that situation, the committee should report the dollar amount of the purchase on Schedule A supporting Line 11(a)(i), listing the broker or market mechanism and explaining that the amount is the proceeds from the sale of Bitcoins to an unknown purchaser. See Advisory Opinion 1989-06 (Boehlert), Attachment C (as modified here). As a memo entry to that receipt, the committee should report the same information
regarding the original contributor that it would report for a sale of Bitcoins directly to a known purchaser. *Id.*; Advisory Opinion 2000-30 (pac.com) at 9.

**C. Bitcoin Disbursements**

The Act and Commission regulations require that all political committee disbursements (except for petty cash disbursements) must be made by check or similar drafts drawn on a campaign depository. *See* 2 U.S.C. § 432(h); 11 C.F.R. §§ 102.10, 103.3(a); *see also* Advisory Opinion 1993-04 (Cox) (approving electronic bill payment service from a campaign depository as “similar draft”). Funds may be transferred from a campaign depository for investment purposes but “shall be returned to the depository before such funds are used to make expenditures.” 11 C.F.R. § 103.3(a).

The Commission has previously concluded that 2 U.S.C. § 432(h) and 11 C.F.R. § 103.3(a) prohibit a political committee from making expenditures with liquid assets it holds outside of its campaign depositories. In Advisory Opinion 2000-30 (pac.com), pac.com asked whether it could contribute to other political committees stock that pac.com had received as contributions and was holding, unliquidated, in its securities account. The Commission concluded that a committee is required to “sell the stocks and deposit the proceeds into committee depository accounts, and then it may contribute the funds” to the other committees. *Id.* at 8. Similarly, in Advisory Opinion 1986-18 (Bevill), a political committee wished to place its funds in an investment account and use a credit card that would directly debit that account to make disbursements. The Commission concluded that, pursuant to 11 C.F.R. § 103.3(a), committee funds could be

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18 This section addresses CAF’s questions 17 (“Can CAF pay directly for goods and services using Bitcoins?”) and 20 (“Can CAF contribute Bitcoins directly from its Bitcoin account or virtual wallet to another PAC, candidate, or committee to the full extent of the law?”).
placed in the account only for investment purposes and not to make disbursements.

Before the funds could be used to make disbursements, they would have to be transferred to a campaign depository. Advisory Opinion 1986-18 (Bevill) at 2; see also Advisory Opinion 1993-04 (Cox) (discussing Advisory Opinion 1986-18 (Bevill)).

A Bitcoin wallet, as discussed above, is not a campaign depository. The Commission therefore concludes that CAF’s proposal to purchase goods or services or to make contributions to other political committees directly from a Bitcoin wallet is not permitted under the Act and Commission regulations. CAF must sell its Bitcoins and deposit the proceeds in its campaign depositories before using the funds to make contributions or disbursements for goods and services.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. See 2 U.S.C. § 437f. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity. Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the

19 In Advisory Opinions 1982-08 (Barter PAC) and 1980-125 (Cogswell), the Commission permitted a committee to purchase goods and services with disbursements from outside the committee’s campaign depository. In Advisory Opinion 2000-30 (pac.com), however, the Commission concluded that 2 U.S.C. § 432(h) and 11 C.F.R. § 103.3(a) compelled the opposite result, and the Commission distinguished Advisory Opinion 1980-125 (Cogswell) as relating only to “how the contribution should be valued.” Advisory Opinion 2000-30 (pac.com) at 5 & n.11. The approach to disbursements taken in Advisory Opinion 1982-08 (Barter PAC) has never been cited or followed in any other advisory opinion, and it is less consistent with the text of the Act and Commission regulations (which include no exceptions to the depository requirement) than the contrary conclusions reached by the later advisory opinions discussed above.

20 Because of this conclusion, the Commission does not answer CAF’s questions 18 and 19, which concern the valuation and potential discounting of Bitcoins when disbursed for such purchases.
transaction or activity with respect to which this advisory opinion is rendered may rely on
this advisory opinion. See 2 U.S.C. § 437f(c)(1)(B). Please note the analysis or
conclusions in this advisory opinion may be affected by subsequent developments in the
law including, but not limited to, statutes, regulations, advisory opinions, and case law.
The cited advisory opinions are available from the Commission’s Advisory Opinion

On behalf of the Commission,

Ellen L. Weintraub
Chair