

# The Report of the NAR Presidential Advisory Group on Political Survival

## I. BACKGROUND

NAR has always acknowledged its responsibility to do all it can to ensure that members have a fair and competitive work environment and that we promote the societal value of real property ownership. NAR's Strategic Plan states; "NAR is recognized as THE advocate for legislative, regulatory and legal policies that benefit REALTORS® and real property owners."

NAR's political influence and grassroots clout to achieve this NAR Strategic Plan objective were developed as a result of a commitment to build relationships with public officials and regulators by creating an understanding of the importance of real property ownership to American society.

REALTOR® involvement to influence decisions about property rights' issues at the federal, state and local levels of government has been in place for over 40 years and our commitment to fund RPAC requests to help influence the outcome of elections at all 3 levels of government has grown substantially over that time. Through RPAC, NAR contributes directly to federal candidates who support REALTOR® principles and to the National Political Parties and selected Congressional Leadership PACs to ensure NAR has the ability to have its Voice for Real Estate heard by all Members of Congress. NAR also works to influence Congressional elections for those candidates who have proven themselves to be REALTOR® Champions by engaging in independent expenditure (I.E.) campaigns that are funded with voluntary RPAC hard dollar contributions.

After the 2006 election NAR wanted to become even more involved in attempting to impact Congressional candidate races by engaging in more I.E. campaigns for our REALTOR® champions who were supported by their respective states. Federal election law required spending hard dollars to develop and deliver these I.E. messages, but NAR RPAC did not have enough hard dollar resources to expand our I.E. activities. Therefore NAR found a way to position itself to leverage its hard dollar receipts for the 2008 and 2010 elections by "exchanging" NAR dues funds for RPAC hard dollars with state associations who could legally operate using soft dollars in their state elections.

To compliment NAR candidate support with RPAC, NAR committed dues dollars in each of the past three 3-year budget cycles to fund messages that will help shape Congressional members' opinions about federal issues important to REALTOR® members. Finally, for the past 26 years NAR has provided dues money through the Issues Mobilization Committee that can be tapped by state and local associations to help pass or defeat issues at their respective levels of government.

In 2008 the NAR Leadership Team recognized that NAR needed to enhance its political influence and clout at the federal, state and local levels by "moving the agenda" through our Second Century Initiatives. With the leadership of NAR CEO Dale Stinton, a robust set of resources were identified to create a **REALTOR® Party** that would employ new and powerful organizational tools that would provide all three levels of our Organization unrivaled political strength to more effectively help elect REALTOR® champions and successfully advocate REALTOR® public policy. In outlining what he saw for NAR to build a powerful political operation, Dale led the development of a host of Second Century Initiatives that would frame an unprecedented partnership with our state and local REALTOR® Associations to significantly enhance our REALTOR® Party involvement with our members while also creating a new and powerful political influence model to have a significant impact with public officials and voters.

New Second Century Initiatives were created to more effectively involve our members in calls for action at the federal, state, and local levels with the implementation of a new (free to state and locals)

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on-line advocacy software complimented by our broker involvement program. A state of the art PAC management system (free to state/locals associations) is being incrementally rolled out to create one holistic and real time capacity for managing RPAC receipts and disbursements while also providing an unprecedented capacity for our state and local associations to conduct on-line fundraising.

Second Century Initiatives were also created to influence voter support of issues and candidates. Through our Electoral Services program all levels of the REALTOR® family now have the capability to survey voter attitudes and to test /design messaging to effectively target voters for issue and candidate campaigns. Through our Issue Coordinated Campaign program NAR is now partnering with selected State Associations to achieve ballot access to pass constitutional amendments on salient REALTOR® public policy. Beta testing for an NAR partnership with state and local associations to support state and local REALTOR® Party champions with soft dollar Independent Expenditures is currently underway.

With these 2008 Second Century Initiative investments NAR has moved to position itself as an even greater political powerhouse in being able to advocate for those ideals important to its members. With a close partnership that has been established between the new Community & Political Affairs Division and our State and local Executive Officers and Government Affairs Directors, NAR has positioned itself to “move the agenda” of the REALTOR® Party for its members at all three levels of the REALTOR family.

In January of 2010 this landscape dramatically changed with the Supreme Court's ruling in “Citizens United vs. the Federal Election Commission (FEC)”. The Citizens' ruling eliminated the federal requirement that hard dollars be used to pay for I.E. efforts designed to influence the outcome of a congressional candidate's race. As significantly, the Citizens’ ruling also changed the landscape for 23 state and local REALTOR® Associations who had similar state laws with hard dollar I.E. requirements that were also overturned. The Citizens’ ruling sent an unmistakable message that unlimited sums of corporate money (soft dollars) could now be used to help shape voters’ opinions about candidates through I.E. campaigns.

The Citizens’ ruling was a very clear game changer for NAR and RPAC since the “hard dollar” PAC advantage that the REALTOR® family worked for over 40 years to achieve (over more than 4,000 other federally registered PACS) was now likely to be swamped with soft money I.E.'s being conducted at all three levels of our electoral process. However, this game changing Supreme Court decision also opened the door for NAR to consider additional, new directions for elevating our REALTOR® Party influence by using general funds (corporate funds, i.e. soft dollars) while lowering the amount of RPAC hard dollars needed to directly contribute to federal candidates.

Immediately after the Supreme Court ruling was announced, President Obama and Democratic leaders of Congress committed to try and pass legislation that would limit or mitigate the impact of the ruling. The “Democracy is Strengthened by Casting Light on Spending in Elections” (DISCLOSE) Act passed the full House on a partisan vote. The legislation was also voted on by the full senate but fell short by a few votes. While senate leaders have hinted they may bring it up again for a vote this Congress, chances of enactment this year are very rare. With very limited support from Republicans who are expected to gain seats in the mid-term elections later this year, chances for passage most likely further diminish next year. Even if the legislation were to pass, its effects would most likely be limited on NAR. Whether any such legislation can effectively curtail corporate express advocacy for other groups is uncertain, and would in any event certainly draw court challenges that would delay its implementation.

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Another consideration was whether the new opportunities brought forth by the Citizen's United ruling could soon be eliminated by a reverse decision by the Court in a subsequent ruling or by a new make-up of the Court. Both internal and external legal counsel well versed in campaign finance legal issues felt this was a very rare likelihood to occur. Thus, it appears that this new law of the land will at least be here to stay for the foreseeable future.

In light of the Supreme Court ruling, President Vicki Cox Golder created the PAG on Political Survival and charged the members with the responsibility of evaluating the ruling's impact on NAR's REALTOR® Party programs influence model and to determine if there were opportunities that NAR should seize, either short or long term, to enhance our political influence at all levels of the REALTOR® family.

In order for the PAG to have the proper context for the scope of the implications of the Supreme Court ruling on the REALTOR family, a comprehensive online survey of key REALTOR® constituencies was commissioned that was facilitated by our Electoral Service Program survey research consultant. The questionnaire was administered to five separate REALTOR groups: 1) REALTORS® who do not contribute to RPAC; 2) Regular RPAC contributors; 3) RPAC Major Donors; 4) Members of the Young Professional Network (YPN); and 5) Executive Officers. More than 6,400 members participated in this survey.

The results reflected the fact that REALTORS® were not familiar with the Supreme Court's ruling in the Citizens United decision. Most members have heard very little or nothing at all about the decision. After learning more about the ruling and its impact, members are split on the idea of using general funds to help elect candidates. If NAR chose to use general funds to help elect candidates, there could be an adverse effect on RPAC contributions. In light of these findings the PAG believes it will be of paramount importance for NAR to initiate an education campaign to our membership explaining the significance of the Supreme Court ruling in order to allow them to understand the opportunities now available to the REALTOR Party.

The PAG members determined that the short and long term results of the Supreme Court ruling were indeed "game changers" for the REALTOR® family. The Supreme Court Citizens' ruling permitted the utilization of corporate funds for all federal, state and local I.E. candidate campaigns. Therefore how this ruling impacts RPAC hard and soft dollar fundraising and disbursements were paramount questions for the PAG to address. However, an equally important consideration for the PAG was the need to assess how NAR could further leverage our REALTOR® Party Second Century Initiative investments to further advance our "first mover advantage".

To facilitate our review and recommendation process the PAG divided its discussion into the four specific and distinct political components that comprise the REALTOR® Party influence model for public officials and voters:

- 1.) Federal candidate activities;
- 2.) Federal issues activities;
- 3.) State and local candidate activities;
- 4.) State and local issues activities.

What binds these four REALTOR® Party program components together is the Electoral Services Program, one of the most comprehensive, state of the art tools in NAR's political arsenal.

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The PAG evaluated existing programs and activities within each of these four REALTOR® Party program components, explored new avenues for enhancing REALTOR® political influence within each area, and determined if NAR had enough financial resources within each of the four components existing budgets to accomplish our recommended objectives. The PAG also analyzed the Electoral Services Program to identify methods to enhance its effectiveness.

### II. ELECTORAL SERVICES PROGRAM

This program was created and funded in 2008 as part of the Second Century Initiatives and it is designed to bring critical voter data, key demographic information, and modern campaign organizational tools to NAR and to our State and local Associations. The Electoral Services Program encompasses five elements:

- 1.) A national database of over 170 million voters that we are licensed to utilize and that can be cross referenced with over 100 demographic categories;
- 2.) Customized software that allows authorized national, state and local staff members to identify and target key voter groups based on demographic targeting;
- 3.) Consultant support to lead or assist with voter targeting/demographic analysis and/or provide survey research to enhance targeting activities;
- 4.) Annual state allotments of free voter contact home addresses or e-mails (with a cap) to requesting state or local Associations for their targeted issue or candidate advocacy;
- 5.) As NAR partners with our state and local associations on issue or candidate campaign activities we capture voters who have assisted the REALTOR® family - - thereby creating a legacy database of voters that the REALTOR® Association now owns for future national, state or local issue or candidate use (2.2 million voters as of 9/1/10).

The PAG recommends this program needs to be expanded. The shortfall for the program over the next 6 years (2011-2016) is \$6,906,000. However, the PAG believes that the 3<sup>rd</sup> and 4<sup>th</sup> components of the electoral services program need to be enhanced above the forecasted budget recommendations in order to provide the necessary level of support to state and local associations who want to utilize this program but do not have adequate staffing and/or funding to purchase additional voter records over the free allotment.

Rationale:

- Designed to bring modern campaign tools to empower state and local associations to run cost efficient and strategically effective issue and candidate campaigns, the Electoral Services program is the cornerstone for building a more powerful REALTOR® Party. Unfortunately many State and Local Associations have neither the staff expertise/ time to utilize the voter targeting tools to design a campaign plan nor the financial resources to purchase additional names (even at discounted rates) beyond those provided for free by NAR.

### III. STATE AND LOCAL ISSUES ACTIVITY

The NAR Issues Mobilization Program assists state and local associations through education, financial, and/or technical support to enable them to organize and manage effective issue campaigns that advance REALTOR® public policy. The Issues Mobilization Program, governed by the Issues Mobilization Committee, began in 1984 with an annual operating budget of less than \$75,000. From 2004-2009 the average IMC contribution to local and state REALTOR® Associations has doubled from \$30,000 to \$60,000 and the average number of requests per year has also doubled from 10 -20.

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The IMC program was greatly enhanced in 2009 when the annual operating budget significantly increased (\$1,000,000) as a result of the Second Century Initiative funding. In addition, new state of the art Electoral Services Program tools, funded from Second Century Initiative resources, were incorporated into the framework of the IMC Program to provide the “technical” support to our State and Local Associations to complement their direct financial support. Finally, Second Century Initiative funds were allocated to create the Issues Coordinated Campaign program - a new activity based on NAR’s successful 2008 beta test partnership with the Arizona Association that successfully promulgated a state constitutional amendment to permanently prohibit transfer taxes.

The Issues Coordinated Campaign Program, also governed by the Issues Mobilization Committee, provides opportunities for State Associations to take a financial, political, and organizational leadership role to enact public issue advocacy campaigns to pass laws that have national significance for real estate. In partnership with NAR, the Missouri and Montana Associations have successfully achieved ballot access for the voters of their respective states to permanently ban transfer taxes in this November’s elections.

Americans hold dear to the “citizen” initiative process. In what might be indicative of the country’s attitude about ballot measures, a 2008 survey of likely voters in California found “Californians think they make better public policy than elected officials do.” Money raised around ballot measures across the country shows a spiraling growth trend. In the 2008 election 172 ballot measures were voted on in 26 states. Nearly \$814 million was spent by supporters and opponents of those measures, which compares to \$398 million on 59 initiatives in 18 states in 2004.

The bottom line -- there has been a proliferation of initiatives in the country along with an exponential growth in their costs. This electoral landscape has fueled a doubling of the number of IMC requests for a myriad of issues that have also doubled in cost. Therefore the PAG recommends for the period covering 2011-2016 that the Issues Mobilization operating budget be increased by \$15.8 million and the Issues Coordinated Campaign budget be increased by \$24.2 million -- for a total increase of \$40 million in the overall Issues Mobilization fund.

The PAG believes that our State and Local Associations need to recognize the nature of this challenge by increasing their budgets to provide appropriate levels of financial resources to address their respective issue campaigns. Currently only 11 states have a special funding mechanism in place to build an issues war chest. To underline the saliency of this need to create a special REALTOR® Issues fund culture, the PAG believes that future NAR Issues Coordinated Campaigns be directly linked to State Associations’ financial capacity to significantly share the costs of these campaigns.

### Rationale:

- The Issues Coordinated Campaign is designed to proactively partner with state associations in passing significant legislation that could have an impact on a national scale. Creating these partnerships between NAR and state associations has resulted in REALTOR® led public advocacy campaigns that have (and will) change state constitutions that will benefit homeowners and our industry. As the cost and complexity of campaigns continue to escalate the PAG recommends that a strategic model be developed for all levels of the REALTOR® Organization in order to enhance their strategic outreach to coalition partners - - thereby building our financial and political strength and developing protocols that advance or defeat significant REALTOR issues .

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### Rationale:

- As a result of the Supreme Court ruling, consumers will be increasingly flooded with corporate messaging both on issues and on candidate qualifications. The cost to deliver an appropriate amount of messaging to impact a race or issue will likely grow to a level where there will be more need to engage in coalition efforts. Understanding there are challenges in forming any coalition that can be counted on to act as a cohesive group, NAR should proactively prepare for this as a future need and determine what deal points are essential to engage in such coalition efforts.

Finally, the PAG feels that a “Best Practices” manual for the creation, utilization and management of issues funds should be developed to help guide our State and Local Associations as they traverse this quickly evolving issues campaign environment.

### Rationale:

- Creating a "Best Practices" manual will help guide Associations to be well prepared financially to respond to issues of significance that impact their respective level of government.

## **IV. STATE AND LOCAL CANDIDATE ACTIVITIES**

This is the newest Second Century Initiative program that has just been started by NAR in partnership with state and local associations and its inclusion for partnership and funding at the national level is a paradigm shift of culture for the REALTOR® family. Its purpose is to create a soft dollar partnership, thereby leveraging the Supreme Court ruling, between NAR and state/local associations to engage them in I.E. candidate campaigns to elect REALTORS® and REALTOR® Champions to state and local office. The goal of the program is to advance the agenda of the REALTOR® Party by allowing REALTORS® to have an even greater impact on public policy by impacting the outcome of elections on behalf of REALTOR® Party candidates. These are independent expenditure campaigns that are developed separate from the candidate's campaign and require the same requirement for confidentiality as at the federal level to ensure these efforts are done independent of any direction from or knowledge of the efforts by the candidate.

Called the REALTOR® Party State and Local Candidate Independent Expenditure Program, it would establish a financial partnership between NAR and state/local associations. The program provides our REALTOR® Associations with the state of the art NAR electoral services tools created with Second Century Initiative funds. This political tool set, complimented with NAR and state/local Association soft money for voter outreach, provides an unprecedented partnership for conducting independent expenditures that can affect the political makeup of the state or local governing bodies.

Prior to the Citizens' ruling, just as NAR was required to use hard dollars to fund independent expenditure campaigns, 23 states were also required under their state laws to use hard dollars for funding I.E. races. The Supreme Court's ruling effectively did away with those limitations, although many states have not yet begun to draft legislation that will eliminate their restrictions. NAR will be offering consulting services for any of our 23 State Associations seeking to impact their disclosure laws, including but not limited to drafting model legislation for their specific state that could accomplish the transition. Because state legislators do have the right through the Supreme Court ruling to create disclosure requirements, this aspect will be most difficult for REALTOR® organizations to navigate through since they could find legislators perceiving them to be engaging in areas that are not within the usual REALTOR® Party public policy priorities.

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Prior to the Supreme Court ruling 27 states had no restrictions on spending soft dollars to fund independent expenditure campaigns at the state and local level. Subsequent to the Supreme Court ruling, election regulators in some of the other 23 states that had restrictions have issued statements that they will not be enforcing "pre-Citizens" statutes and related rules between now and when their legislators formally repeal those sections. Therefore there are a significant number of states that are immediately positioned to undertake and/or expand any activities they have in place for candidate I.E. campaigns that help impact the election of state/local candidates they feel will support REALTOR® positions.

NAR's REALTOR® Party Coordinating Committee (RPCC), the governance entity with oversight responsibility for this program, allocated approximately \$450,000 from its Electoral Services Program Second Century Initiative funds budget to beta test three REALTOR® Party state and local Independent Expenditure programs in 2010. RPCC has \$450,000 budgeted for 2011 & 2012 to continue this program.

It is the PAG's recommendation that NAR formalize a program similar to the concept of Issues Mobilization where NAR would have available a pool of funds that state and local associations could use (perhaps allocated by membership size) in conjunction with their own local or state funds to engage in independent expenditure campaigns. The model the PAG reviewed for funding this partnership program is based on the average cost of House and Senate candidate campaign races in each state. One possible distribution formula would be to allocate funds based on membership size since there is a direct relationship between the population of states and the cost of campaigns.

Responses from Government Affairs Directors (GADs) show this concept has strong acceptance from a survey conducted at the recently completed GAD Institute in Seattle. Over 87% of the GADs currently invest hard/soft dollar resources to impact the outcome of candidate races in their jurisdictions. However, in the open ended comments to this question it was clear that many of the GADs (particularly at the local level) do not have sufficient resources to meaningfully engage. Over 85% of the GADs would favor NAR creating a similar structure to IMC that uses REALTOR® soft dollar resources to fund a state/local association I.E. program.

Because the REALTOR® Party State & Local I.E. program is being beta tested this year, there are very limited criteria and guidelines that have been established to help manage best practices for the selection, funding and coordination of I.E. races between the National, State and Local associations. Therefore the PAG believes that the REALTOR Party Coordinating Committee needs to develop and finalize a distribution formula, criteria and coordination guidelines to create a strong and viable program going forward. In order to provide our State & Local Associations with enough resources that will provide them with an opportunity to affect the outcome of a targeted group of key state and local races, the amount needed for 2014 - 2016 would be approximately \$26.8 million. In order to generate "first mover advantage" to the many State/Local Associations willing to become engaged in I.E. races, more funds would need to be appropriated earlier.

Furthermore, the PAG recognizes that additional human resource assistance would possibly be needed by state and local associations who want to participate but have extreme limitations on the time existing staff has to implement such coordinated campaigns. When developing guidelines for this coordinated program, consideration should be given to allow state and local associations to request hiring additional personnel to help manage these campaign activities.

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### Rationale:

- The benefits of creating this partnership would provide state and local associations with the financial resources as well as the electoral tools needed to elect REALTOR®/REALTOR® Champions at all levels of elected office. Building this network of REALTOR®/REALTOR® Champions would affect the political makeup of the state and local governing bodies, thus advancing the agenda of the REALTOR® Party by having a significant positive impact on the public policy issues facing the real estate industry. The political influence and power of the state and local associations will dramatically increase, particularly important with the likely infusion of soft money in local and state races by other entities. Without an increase in funding, this program would not be able to assist the number of candidates needed to adequately affect our public policy agenda.

The PAG further recommends that NAR quickly outline "best practices" to limit confusion on what will be considered a collaborative partnership. As NAR, state and local associations gather results from our partnered activities; NAR will build an unrivaled "body of knowledge" that guides ways to effectively impact candidate race results into the future.

### Rationale:

- Creating "Best Practice" guidelines are necessary to insure any state or local association interested in working through this collaborative partnership program knows the criteria for candidate consideration.

## V. **FEDERAL ISSUES ACTIVITIES**

Utilizing dues funds, NAR has been engaged for the past several years in ongoing federal issue advocacy to influence Congressional members and government regulators regarding our public policy positions. While the scope or extent of these activities are not directly impacted by the Supreme Court ruling, the cost of delivering these messages to targeted voter groups will continue to grow due to the increased cost of print, TV and other selected media strategies.

PAG members want to make sure there is sufficient available funding to respond to the "perfect storm" environment of anti-homeownership measures that will be contemplated regarding capital gains, mortgage interest deductibility, the GSE's and FHA. The PAG strongly encourages NAR to elevate preparing for this battle and making decisions on how to appropriately fund this on behalf of its members.

Even without this "perfect storm" concern, beginning in 2013 through 2016 the federal issues activities show a shortfall of approximately \$15 million.

### Rationale:

- With several important homeownership public policies (i.e. Mortgage Interest Deduction, Government Sponsored Enterprises reform) expected to be under increasing attack over the next few years, the cost to share the message will increase as more corporations pour money into spreading their respective messages.

The PAG was enthused that "HouseLogic" will be used as NAR's vehicle for consumer/voter education and advocacy on salient NAR federal policy priorities. Utilizing the power of our electoral services targeting tools, coupled with the growing awareness of the "HouseLogic" brand with consumers, NAR



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will be uniquely positioned to engage voters in our key federal advocacy priorities. The first test of this concept will be undertaken as part of the recently approved “NAR Homeownership” campaign that is designed to raise the awareness of consumers on the value of homeownership while also engaging key voter groups to advocate on behalf of homeownership with key members of Congress. The PAG recommends that NAR explore the concept of raising funds from the public through an on-line fundraising vehicle created and promoted by NAR on REALTOR® federal policy homeownership priority issues that can clearly invest them as stakeholders.

### Rationale:

- NAR is investing considerable effort to begin educating the public through its online consumer real estate website, HouseLogic. NAR is in the process of using HouseLogic as a vehicle to speak to targeted consumers (voter groups) to educate them on our current homeownership campaign and then to assist us by advocating for homeownership in the next Congress. The PAG believes that the final step in the consumer engagement ladder is to ask these self-identified homeownership advocates to contribute to future property rights issues. Therefore NAR should be proactive in leveraging its existing tools to allow consumers to contribute to help advance property rights interests.

## VI. FEDERAL CANDIDATE ACTIVITIES

### A. Independent Expenditures

The Supreme Court ruling did not change the requirement that hard dollars must still be used to fund candidates directly and to contribute to the political parties and leadership PACs. Given the level of funding that is allowed by law for candidates in each race, plus contributions to the political parties and leadership PACs, NAR needs to ensure it has approximately \$5.5 million available in hard dollars every 2 year cycle to meet its RPAC hard dollar needs. RPAC is expected to raise \$10.2 million for the 2009-2010 election cycle. Prior to the Supreme Court ruling these “excess” hard dollar funds, coupled with additional hard dollars bought from state associations, were utilized to fund our federal I.E. program.

The Supreme Court ruling opened the door for NAR to consider using general (soft dollar) funds for its Congressional I.E. activities. The PAG looked to see if the Supreme Court ruling would:

- Increase the cost to impact a race it wanted to try and influence;
  - Cost - Should definitely increase. The law of supply and demand pretty much dictates this reality. Our level of commitment in terms of messaging in each of federal I.E. campaign is at a level that would still be able to help shape public opinion about the candidate. However, the cost of advertising will likely increase due to the fact that more money will be available to be spent on these messaging campaigns and the advertisers will increase the cost of their air time because they have more entities vying for consumer impressions.
- Require NAR to participate in a greater number of independent expenditure campaigns to generate the same net results;
  - Scope - With the ability to use corporate funds, NAR will be able to grow the number of I.E. races it chooses to influence but that number will not significantly increase due to the existing criteria that requires state REALTOR® grassroots support for any candidate to be considered for an I.E. The PAG felt that while the rationale for this process limited the number of races NAR might normally elect to get involved in, the grassroots approval protocol was appropriate in order to ensure harmony among the various REALTOR® family constituencies.

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- Determine if the Member of Congress or Congressional candidate feels NAR's involvement was as important as they had prior to the ruling.
  - View of Federal candidates being supported - a Member of Congress or candidate being supported with an I.E. would likely feel even more appreciative of efforts to help influence public opinion, especially if messaging were positive about them. However, the PAG does not believe that more forceful messaging should be totally avoided and feels that the group overseeing the I.E. efforts should have the flexibility to determine what messages would be most effective.

The Supreme Court ruling allows NAR to modestly expand its I.E. activities and fund those candidates it feels can help shape and influence the debate on issues important to the REALTOR<sup>®</sup> organization, its members, and private property owners. The PAG believes NAR should fund I.E. activities to the greatest extent possible, staying within the guidelines currently modeled to evaluate NAR involvement in Congressional I.E. campaigns. The shortfall for that program over the next 6 years (2012-2016) would be \$23.9 million.

### Rationale:

- While it remains to be seen what impact the *Citizens United* case will have on this election cycle, there is widespread agreement that it will eventually accelerate the rapidly increasing costs of participation in the political process. Election law prior to the Supreme Court ruling placed a vast importance on PAC hard dollar resources as the only vehicle for political expression. As a result, RPAC enjoyed an advantage compared to other PACs due to our large grassroots strength which is manifested thru our sizeable hard dollar annual receipts.
- NAR's hard dollar advantage has now been diminished by the ruling's allowance of direct corporate (soft dollar) funding of Independent Expenditures. With this all but certain increase in corporate dollars, it will be necessary to also increase NAR/RPAC spending on express advocacy at a minimum to keep pace and maintain our position of strength in the political process.

### B. President's Circle

President's Circle activities are extremely important to our federal lobbying ability to deliver direct contributions to REALTOR<sup>®</sup> Party champions and to the political parties above and beyond the PAC limits set by the Federal Elections Commission. With the likely influx of soft dollar I.E. campaigns against many members of Congress, these President's Circle contributions are even more valuable and the need to continue to grow the program becomes absolutely essential in order to maintain our "first mover advantage".

When first established, funding by President's Circle members helped create a "first mover advantage" in response to McCain -Feingold's new requirement that hard dollars had to be used when contributing to political parties and to Congressional members' various campaign accounts. These President's Circle members are some of the more politically astute within the REALTOR<sup>®</sup> family and in order to keep them abreast of the most up-to-date information, networking opportunities were created to recognize them for the importance their contribution makes to help NAR shape an agenda and to provide them with direct access to hear from leaders on Capitol Hill.

The annual Issues Conference is seen as one of the greatest benefits by those who participate as a President's Circle member because it affords an opportunity to: communicate directly with federal

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policy and political leaders; become better educated and more knowledgeable about current policy and political issues; network with other influential members within the REALTOR® family; and instills a commitment to our REALTOR® Party policy and political priorities.

The Issues Conference has been funded from RPAC's Political Advocacy Funds (soft dollar account). However, as the President's Circle membership has increased the Conference has grown in scope and size. The PAG recommends that NAR identify other funding mechanisms to fund the Issues Conference, thereby freeing up RPAC PAF funds for their intended purpose to support federal candidate advocacy through the Opportunity Race program.

### Rationale:

- The PAG affirmed that the Issues Conference was highly successful and is an essential tool that should be continued in order to nurture our REALTOR® policy and political opinion leaders. The PAG also affirmed that identifying Issues Conference cost reductions will be essential (without impacting the continued growth of the curriculum) and that the RPAC Trustees should immediately begin implementing this objective with the 2011 Issues Conference. Suggestions for immediate reductions include eliminating certain perks offered during the conference. Possible long term ideas to explore could include finding sponsors, conducting the Issues Conference every other year or combining the Conference with another NAR Public Policy meeting.

The PAG believes that the Issues Conference should be retained since it is perceived to be the primary benefit for many of the major donors participating in this program. However any changes to the Issues Conference structure should be fully vetted. The PAG feels that NAR should consider various options for lowering the costs of the Issues Conference that might include: shortening the event; eliminating some on-site benefits; covering the cost for President's Circle members only (spouses, significant others); complementing the event with another NAR meeting such as the Washington, DC Policy (February) Conference or holding the Issues Conference on a bi-annual basis.

Given the growing need for President's Circle resources as a result of the Supreme Court ruling there was discussion of options NAR could explore for increasing contribution levels from President's Circle members. One option considered was increasing the President's Circle annual contribution from \$2,000 to \$3,000. The PAG believes this would further limit our members' ability and willingness to participate and that it was more preferable to continue to make concerted efforts to grow the program at its current funding commitment levels.

PAG members believed that there might be an opportunity to grow hard dollar funds given directly to Congressional members by providing incentives to do so once the President's Circle member has met the performance standards for the \$2,000 contribution. These incentives might include allowing the President's Circle member to give additional funds to their Member of Congress of choice (regardless of that Member of Congress being supported by RPAC) with credit for their contribution being given to that REALTOR®'s RPAC Hall of Fame status and possibly to their respective local/state association to go toward their RPAC Fair Share goal. This option isn't without risk since it could send different messages to Congressional members about NAR's position on REALTOR® Party issues as well as impacting NAR's overall RPAC receipts from states.

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### Rationale:

- The Supreme Court ruling reduced NAR's electoral advantage in hard dollar I.E. activity. Conversely this ruling has only enhanced NAR's "first mover advantage" with our successful President's Circle initiative. Membership in the President's Circle has experienced steady growth at its current contribution amount. The PAG believed that increasing the contribution amount would hurt the program's growing participation. However, providing incentives to a President's Circle member for making additional donations warrants further discussion to determine if there are opportunities to create a more powerful REALTOR® Party without a) diluting the REALTOR® Party message and b) causing unintended results due to expectations surrounding the RPAC fair share goal allocations.

### C. RPAC fundraising

In light of the Supreme Court ruling affirming the use of soft dollars for candidate independent expenditures, the PAG analyzed the potential of converting either some or all of RPAC's "excess" hard dollars from the Major Donor program to the President's Circle program. The PAG concluded that while NAR could cover their election cycle hard dollar direct candidate contributions without the use of any RPAC hard dollar Major donor resources, they rejected the concept since the risks and unintended consequences of utilizing NAR's current 30% of each Major Donor investment or 100% of each investment- thereby nationalizing the Major Donor program, greatly exceeded the benefits.

Currently 16 State REALTOR® Associations have state laws in place that allow for the unlimited use of direct hard dollar contributions to their state/local candidates - -a provision that was not impacted by the Supreme Court ruling. The PAG concluded that any "excess" NAR (federal) hard dollar funds could be exchanged with these 16 states if they are in need of hard dollars to advance their RPAC election strategies.

The PAG recommends the need to create a new RPAC soft dollar giving program that would complement our current overall annual RPAC "fair share goal". As a result of the Supreme Court ruling, there is a strategic need for RPAC to create programs to raise voluntary soft money (e.g. soft dollar major donor club). Because all of our fundraising focus for the past 40 years has been on raising RPAC hard dollars there is an untapped potential within segments of the REALTOR® community to raise voluntary RPAC soft money (e.g. broker owners and MLS's).

### Rationale:

- There is a strategic need for raising voluntary RPAC soft dollar contributions at all levels of the REALTOR® association based on the decision of the Supreme Court. Creating a soft dollar giving program will create a new culture of giving within the REALTOR® family, expand RPAC's brand and increase participation by giving corporate entities as well as a limited number of our members (most REALTORS® do not have soft dollar accounts) who do not want to contribute hard dollars another venue to invest. There was unanimous support for this recommendation.
- The PAG rejected the idea of establishing separate goals for hard and soft dollars to avoid confusion and/or to complicate fundraising activities and because the need was to continue to raise more money for both. Any excess NAR hard dollar funds can be re-directed (reverse I.E. Exchange concept) to those 16 state RPAC's that have state laws allowing for unlimited use of hard dollars for direct contributions to candidates.

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Currently a state association can achieve NAR RPAC's "fair share goal" with any combination of hard or soft dollars. Approximately 25% of NAR RPAC's receipts are from soft dollars, but many of these funds are the result of RPAC hard money going stale and turning soft because of missed federal filing deadlines. Our long term strategy is to provide each state association free access to NAR's new PAC management system - - thereby mitigating this problem.

In light of this need to create RPAC soft dollar fundraising programs to raise more RPAC funds, the PAG believes that NAR should continue to allow state associations to contribute both RPAC hard and soft funds to achieve one RPAC "fair share" goal and not to create separate hard and soft dollar RPAC fair share goals. After analyzing survey feedback from our state and local staff it was very apparent that creating two goals would cause too much grassroots confusion and hinder our overall fundraising objective - - to raise more RPAC hard and soft money.

The PAG did not address the issue of increasing the RPAC "Fair share" goal amount. However, the PAG did recognize opportunities for NAR to further explore changes to the RPAC fair share goal formula based on ideas regarding accessing the funds for conducting REALTOR® Party state/local candidate I.E. campaigns noted on page 10 of this report.

### **VII. LEGAL STRUCTURE**

The PAG recommends that NAR establish a segregated fund (a so-called "527 fund") for the exclusive purpose of making independent expenditures in support of federal candidates. Such fund will not be established as a "corporate PAC", but as an independent but NAR-controlled political committee. If deemed appropriate this fund may also make independent expenditures in support of state or local candidates in connection with state and local associations. Alternatively state and local independent expenditures may be made from a separate but similarly established and operated 527 fund created for that express purpose.

The PAG proposes to establish a separate fund to make independent expenditures, in order to give NAR the maximum flexibility in receiving deposits (from NAR dues) and other contributions (coalition partners) and to avoid the 35% "527(f) tax" imposed on 501(c) organizations who make expenditures for candidate advocacy purposes directly from their treasury funds. The fund established will not be a "separate segregated fund" under the Federal Election Campaign Act in the same way as RPAC is, but will be nevertheless subject to the direction and control of NAR. NAR may bear the administrative costs of operating this fund but the expenses incurred in doing will be deemed to be in-kind contributions to the fund, which will be reported as such. The fund will be exempt from federal income tax (except for tax on investment income) under Section 527 of the Internal Revenue Code. This fund will be required to register with and file reports with the Federal Election Commission.

#### Rationale:

- With election law now significantly changed by allowing corporate dollars to be used for express candidate advocacy (Independent Expenditures), NAR must also take advantage of this new tool lest they want to try to continue to compete in the political arena but with one arm tied behind our back.
- Creating a 527 Fund provides the most flexibility and least hurdles to avoid the 35%(f) tax while allowing for NAR to take advantage of the new rules. Even with the creation of a 527 fund, NAR would not be prohibited from funding any I.E. candidate related activities directly through NAR's budget and bear the tax liability of taking that approach.

**VIII. FINAL OVERVIEW**

Expanding the REALTOR® Party: PAG members recommend that the REALTOR® Party Influence model that comprises the following components: state and local issues; state and local candidates; federal issues; federal candidates; and the electoral services program that provides the organizational muscle - - are very worthy of expansion in order to build the REALTOR® party's political influence and clout. Two pre-eminent rationales underscore this recommendation.

- 1.) The Supreme Court ruling in "Citizens United v. The Federal Election Commission." This game changing ruling that allows for the use of soft money for all candidate independent expenditures dramatically changes the political landscape for two of our four REALTOR® Party components- - federal candidates & state and local candidate Independent Expenditures.
- 2.) NAR Second Century Initiative Investments. In 2008 NAR recognized the need to build a greater capacity to fund state and local issues similar to the budget that already existed with our federal issues advocacy program and to provide state of the art technical support with our electoral services program. Investing additional resources are now essential if we want to continue to build on our "first mover advantage".

Furthermore, to build on the 2<sup>nd</sup> Century initiatives already in place and to maximize the opportunity presented by the Supreme Court decision, we need to identify additional resources to fully fund our enhanced REALTOR® Party programs that will guarantee REALTORS®' political survival in the post *Citizens United* world.

Rationale:

- Even if the enhanced volunteer RPAC fundraising strategies proposed are as successful as hoped, they cannot raise the amount of funds needed to meet the projected shortfall in order to fund these necessary political program enhancements.
- With public pronouncements by political competitors of their intention to begin using corporate funds to enhance their political advocacy efforts, NAR must also take advantage of this new ability to use corporate monies for express advocacy at the federal as well as state and local level.

The PAG believes that the REALTOR® Party influence model needs to be reviewed and approved holistically and that underfunding any of its inter related components will considerably hamper our ability to "move the agenda". The PAG strongly recommends and encourages NAR to move aggressively to consider how to enhance the funding of all the components of the REALTOR® Party influence model outlined in this report. NAR will need an enormous amount of resources quickly since these REALTOR® Party programs are not ones than can be done incrementally. Bold action is necessary!