



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: THE COMMISSION
STAFF DIRECTOR
GENERAL COUNSEL
FEC PRESS OFFICE
FEC PUBLIC DISCLOSURE

FROM: COMMISSION SECRETARY *D.H.*

DATE: May 12, 2004

SUBJECT: COMMENT: PROPOSED AO 2004-13

Transmitted herewith is a timely submitted comment from Mr. Ken Morley regarding the above-captioned matter.

Proposed Advisory Opinion 2004-13 is on the agenda for Thursday, May 13, 2004.

Attachment



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Mary Dove
Secretary of the Commission
Federal Election Commission
Washington, DC 20463

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COUNSEL
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Dear Secretary Dove:

Thank you for the opportunity to comment on the draft Advisory Opinion issued by your office on May 7. We strongly support the draft opinion in almost every respect, and appreciate the speed in which this issue was considered.

We are concerned, however, about the issue of failure to file an FEC Form 10 even when personal expenditures exceeds \$350,000. The draft Advisory Opinion states:

"Neither the Act nor the regulations provide an exception, however, for situations where an opposing candidate fails to file a required FEC Form 10 in the first place." (Page 8, Line 1)

Our concern is that this potentially invites candidates to deliberately flaunt their reporting obligations to the FEC, thereby denying their opponent the opportunity to take full advantage of expanded limits under the Millionaire's Amendment. We hope that the Commission would address this issue in the final Advisory Opinion, perhaps by indicating that clear proof of personal expenditures exceeding \$350,000 - perhaps from a normally filed FEC report - could constitute "constructive notification" even in the absence of a FEC Form 10.

Again, we would like to emphasize that we support the draft opinion in almost every respect, and are grateful to the Commission for considering this request.

Sincerely,

Ken Morley
Campaign Manager
Allyson Schwartz for Congress

Copy: Mr. Lawrence H. Norton, Mr. Robert Knop