FEDERAL ELECTION COMMISSION
Washington, DC 20463

5 AUG 1976

RE: AOR 1976-45

R. Brian Tsujimura
John P. Craven Campaign Committee
P.O. Box 27378
Honolulu, Hawaii 96827

Dear Mr. Tsujimura:

This letter is in response to yours of June 22, 1976, in which you asked a series of questions regarding certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

Your first question relates to 2 U.S.C. §432 which sets out the recordkeeping obligations of the treasurer of a political committee. You inquire whether the treasurer must keep a record of the name and address of all contributors of any amount. Under 2 U.S.C. §432(c)(2), the treasurer must keep an account of the identification (full name and address, §431(j)) of every person making a contribution in excess of $50 and, if a person's contributions aggregate more than $100 in a calendar year, the account shall include an individual donor's occupation and principal place of business. In seeking to implement this section, the Commission has given final approval to the following proposed regulation:

> It shall be the duty of a candidate (not having received a waiver under §101.3) and of the treasurer of a political committee or an agent authorized by the treasurer to receive contributions and/or make expenditures to--
>
> (a) keep an account of all contributions made to or for the committee or candidate, and, record
>
> (1) the identification of every person making a contribution in excess of $50;
>
> (2) the occupation and principal place

> of business of individuals whose contributions aggregate in excess of $100 in a calendar year;
>
> (3) the date received; and
>
> (4) the amount of the contribution.

§102.9(a) of the Commission's proposed regulations. [emphasis added.]

You ask how the general recordkeeping provision relates to the statutory requirement to report the total amount of proceeds from mass collections at fundraising events under 2 U.S.C. §434(b)(6)(B). Clearly, donations made through a mass collection fall under the definition of "contribution," in 2 U.S.C. §431(e)(1), and thus the general requirements for accounting for the identification of donors apply. See AO 1975-40, 40 Fed. Reg. 47691 (Oct. 9, 1975), enclosed.

Proposed regulation §102.9(d) sets out the specific recordkeeping requirements for mass collections. This provision requires the treasurer to--

> Keep full and complete records of proceeds from the sale of tickets and mass collections at each dinner, luncheon, rally, and other fundraising events, and these records shall include the date, location, and nature of each event. He or she shall also keep full and complete records of the proceeds from the sale of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, jewelry, and similar materials, and these records shall reflect the cost of the items to the committee, the sale price, and the total volume sold. These records shall be preserved in accordance with §104.

Section 102.9(e) provides that the treasurer shall "use his or her best efforts to obtain the required information, and shall keep a complete record of the efforts to do so."

We wish to also draw your attention to another section of the proposed regulations §110.4(c)(3), which may have special significance to mass collections:

> A candidate or committee receiving an anonymous cash contribution in excess of $50 shall promptly dispose of the amount over $50. The amount over $50 may be used for any lawful purpose unrelated to any Federal election, campaign or candidate.

You also inquire as to the value of items bought at cost by the committee and sold at a higher price to raise donations. The entire amount paid by the purchaser is considered a contribution. This conclusion is mandated by §100.4(a)(2) of the proposed regulations which provides that "contribution" means, inter alia, "The donation of all or a portion of the costs of fundraising, such as the cost of a meal as part of a fundraising dinner." The position stated in this regulation is consistent with a series of advisory

opinions previously issued by the Commission, which we enclose. See AO 1975-15, 40 Fed. Reg. 44040 (Sept. 24, 1975); AO 1975-62, 40 Fed. Reg. 52795 (Nov. 12, 1975); AO 1975-49, 40 Fed. Reg. 55600 (Nov. 28, 1975).

Your second line of inquiry relates to §432(b), which requires that a person who receives a contribution in excess of $50 for a political committee must render a detailed account to the treasurer within five days. These contributions must be deposited within ten days of the treasurer's receipt thereof;

> All contributions received by a candidate, his or her authorized political committee(s) and any other political committee(s) shall be deposited in a checking account in the appropriate campaign depository by the candidate, or by the treasurer of the committee or his or her agent, within 10 days of the candidate's or treasurer's receipt thereof. . . . §103.3(a) of the proposed regulations.

If the person fails to meet the requirements of §432(b) without the treasurer's knowledge, the treasurer has no duty regarding the contribution. But at whatever time the treasurer learns of the contribution, he or she shall treat it as a contribution timely forwarded.

Finally, the authorization notice for an advertisement needs to contain the name of the committee. Proposed regulation §110.11(a) reads as follows:

> (1) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, but not on bumper strips, a pin, button, pen and similar small items upon which the disclaimer cannot be conveniently printed, the communication--
>
> (i) if authorized by a candidate, his or her authorized political committees or their agents, shall clearly and conspicuously state that the communication has been authorized on behalf of that candidate; or
>
> (ii) if not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization required to be listed under §102.2(a)(2).
>
> (2) For the purposes of this section, "clearly and conspicuously" means--

(i) on the face or front page of printed matter, or at the beginning or end of a broadcast or telecast matter, and shall include the name of the committee; and

(ii) in a manner calculated to provide actual notice to a reader, listener or viewer. [emphasis added.]

This response relates to your opinion request but may be regarded as informational only and not as an advisory opinion since it is based in part on proposed regulations of the Commission which must be submitted to Congress. The proposed regulations may be prescribed in final form by the Commission only if not disapproved either by the House or the Senate within thirty legislative days from the date received by them. 2 U.S.C. §438(c). The proposed regulations were submitted to Congress on August 3, 1976. It is the Commission's view that no enforcement or compliance action should be initiated in this matter if the actions of the political committee you represent conform to the conclusions and views stated in this letter.

Sincerely yours,

(signed)
Vernon W. Thomson
Chairman for the
Federal Election Commission

Enclosures