



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 30, 1977

AO 1977-7

Honorable George Hansen
House of Representatives
Washington, D. C. 20515

Dear Mr. Hansen:

Your letter of February 18, 1977, sets forth a plan for solicitation of personal funds by a holder of Federal office to provide "financial security" for the officeholder and requests an advisory opinion as to application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and the Commission's proposed regulations, to the plan as described.

Your letter describes the conditions under which the personal funds would be solicited, accepted, and utilized:

- (1) The personal funds would be solicited either in person or by mail.
- (2) In order to overcome the presumption that the donations were contributions, all solicitations for personal gifts would be accompanied or immediately followed up by a letter stating the purpose of the solicitation and requesting the donor to sign a card to be returned with the gift affirming such purpose of the gift. The statement of purpose in the solicitation letter will be as follows:

"The purpose of this solicitation is to obtain personal funds for (name of office holder) for his (her) personal use. Funds obtained by this solicitation will not be used for the purpose of influencing any nomination or election and will not be used in any campaign by or in behalf of (name of office holder) and will not be used by him (her) in any way to promote or to maintain the official activities of (name of office holder)."

The statement of affirmation of purpose and amount of the gift on the card to be signed by the donor and returned with the gift will be as follows:

"I, the undersigned, hereby affirm that the purpose of this gift in the amount of \$_____ is donated to (name of office holder) for his personal use only, and that this gift is not given to influence any nomination or

election or as a campaign contribution or for the purpose of promoting or maintaining the official activities of (name of office holder)."

- (3) No gifts will be solicited, or knowingly accepted, which are prohibited by sections 114.2 and 115.2 of the proposed F.E.C. Rules and Regulations.
- (4) No such solicitation will be conducted during any one year period prior to a general election.
- (5) The solicitation effort will not be conducted or staffed by persons on the office holder's staff who are on the federal payroll or by persons employed and paid by the office holder or his campaign committee in the immediate past campaign.
- (6) The solicitation will not be conducted within the Congressional District of the office holder nor would constituents be knowingly solicited.
- (7) The solicitation effort will be self-supporting and will repay personal "start-up" funds advanced by the office holder for its operation.
- (8) All disbursements from gifts received will be paid out solely for costs of the solicitation effort or to the personal account of the office holder.
- (9) As a condition to allowance of such solicitation for personal funds, the office holder will not make expenditures from personal funds at any time in the future following commencement of the solicitation. An affidavit forswearing future use of personal funds for expenditures will be executed by the office holder in a form approved and/or provided by the Federal Election Commission.
- (10) As a condition to allowance of such solicitation for personal funds, the proposed solicitation letter and return affirmation card shall be submitted to the Federal Election Commission for approval.
- (11) An accounting of the solicitation effort shall be reported to the Federal Election Commission on a monthly basis or at such other times as requested by the Commission. The accounting shall contain at least the following:
 - (a) The amount of each gift, the date of its receipt, and the name and address of each donor related to each gift.
 - (b) The amount of each disbursement, the date of its payment, the name and address of the payee, and the purpose of the payment if not made to the personal account of the office holder.

Based on your representations as to how the personal fundraising would be conducted and the conditions under which gifts would be solicited and accepted, the Act and proposed regulations would not apply. Accordingly, there is no obligation to submit to the Commission any letters, cards, affidavits, or reports related to the described plan for personal fund solicitation.

Although the conclusion stated above is premised on conducting the fundraising in accordance with all the conditions set forth in your letter (other than those stating that materials would be submitted to the Commission), the Commission emphasizes, in particular, the importance of complying with paragraphs (8) and (9) which indicate that personal funds received as a result of the described plan, as well as other personal funds of the officeholder, will not be expended (after the plan is put into operation) at any time for the purpose of influencing the nomination or election of the officeholder to Federal office. 2 U.S.C. 431(f). The Commission further understands that the condition set out in paragraph (9) above, forswearing future use of personal funds for campaign expenditures, would also preclude the officeholder-candidate from assuming any joint, contingent, or other liability on loans obtained for past or future campaign purposes by or on behalf of an authorized campaign committee of the officeholder.

The Commission's conclusion that the described plan is not within the Act should not be construed as Commission endorsement or approval of the plan; nor does the Commission purport to express any views on the applicability of other laws outside its jurisdiction, including the provisions of Title 18 of the United States Code, to the described personal fundraising plan. The Commission also notes the possible application of the Rules of the House of Representatives to this situation, but may express no opinion with respect to application of those rules. Finally, the Commission expresses no opinion as to any Federal tax ramifications connected with the described activity since those issues are within the jurisdiction of the Internal Revenue Service.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act to a specific factual situation set forth in your request. 2 U.S.C. 437f.

Sincerely yours,

(signed)

Vernon W. Thomson

Chairman for the

Federal Election Commission