



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 27, 1977

AO 1977-22

James C. Corman, Chairman
Democratic Congressional Campaign Committee
413 New Jersey Avenue, S.E.
Washington, D.C. 20003

Dear Mr. Corman:

This refers to your letter of May 12, 1977, with enclosure, requesting an advisory opinion on behalf of the Democratic Congressional Campaign Committee ("the Committee) concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposed contract with Universal City Studios, Inc. ("Universal"), for a fundraising concert to be performed in Los Angeles on June 18, 1977.

The contract between Universal and the Committee provides that the Universal Amphitheater facility "with full operational staff" will be made available to the Committee for a rental of \$5000 payable upon execution of the contract. The Committee agrees to provide the services of several artists and will also pay any out-of-pocket expenses for materials and labor incurred in the presentation of the concert. Your letter states that the \$5000 rental fee is based upon the profit per night realized by Universal for use of the amphitheater during the 1976 summer season. The rental fee also includes compensation for an executive on the staff of the amphitheater.

Ticket prices will be scaled with 4,000 seats at \$12.50; 700 seats at \$100;¹ 300 seats at \$500; 200 seats at \$1,000, for a maximum gross of about \$470,000. Your letter states that no more than four \$12.50 tickets may be sold "to any one individual."

Proceeds from these sales will be held by Universal until ten business days following Universal's receipt of the last invoice for materials and services rendered under the contract. Universal has the right to withhold from ticket proceeds monies due for materials and services

¹ The Commission understands that the Committee and not Universal will handle ticket sales for the tickets priced at \$100 and above. Your letter states that "no procedures have been instituted for monitoring the \$12.50 ticket distributions" by Universal other than assuring that no more than four tickets will be sold to any one individual. Since, however, the Act prohibits contributions in any amount from certain sources in connection with Federal elections, see 2 U.S.C. 441b, 441c, 441e, care must be taken that these entities do not make any ticket purchases.

rendered in presenting the concert. The contract further provides that any expenses that exceed ticket sales will be paid by the Committee to Universal within ten (10) business days.

It is inappropriate for the Commission to render an advisory opinion as to whether the proposed contract "complies in all respects" with the Act. The Commission may, however, issue an advisory opinion with respect to certain specific questions apparent from your letter and the proposed contract.

Payment of \$5,000 rental fee by the Committee to Universal

As quoted in your letter, 114.9(d) of the Commission's regulations permits political committees to use corporate facilities for activity in connection with a Federal election as long as the corporation is reimbursed "within a commercial reasonable time in the amount of the normal and usual rental charge, as defined in 100.4(a)(1)(iii)(B), for the use of the facilities." The regulations define the term "usual and normal charge" in the case of goods as "the price of those goods in the market from which they ordinarily would have been purchased at the time of their contribution."² The rental fee is appropriate if \$5,000 would be the normal and usual rental charge in the market from which equivalent facilities would ordinarily be rented at the time of the event in question. The Commission is unable to determine whether the computation described in your letter accurately reflects a normal rental value.

Recordkeeping and reporting obligations with respect to proceeds from ticket purchases

As you realize, under 2 U.S.C. 432(c) the treasurer of a political committee is required to keep a detailed and exact account of all contributions made to or for the committee as well as the identification of every person making a contribution in excess of \$50 and the date and amount thereof. For contributions that aggregate more than \$100 the accounting record must include occupation and principal place of business for the contributor.³ Ticket purchases are treated as contributions in the full amount of the purchase price.⁴ The described identification information must be obtained the total amount paid for any number of tickets purchased by the same individual exceeds \$50. Also, the reporting provisions in 2 U.S.C. 434(b)(6) require that the total amount of proceeds from all fundraising events be reported. In addition, any contribution/ticket purchase which exceeds \$100 for calendar year 1977, when a combined with other contributions from the same individual, must be itemized including information as to the amount and date of such contributions. See 2 U.S.C. 434(b)(2).

² 100.4(a)(1)(iii)(B)(1).

³ See 102.9(a) of the Commission's regulations.

⁴ See 100.4(a)(2) of the regulations.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the matters of fact set out in this letter only. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Thomas E. Harris
Chairman for the
Federal Election Commission