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FEDERAL ELECTION COMMISSION
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October 18, 1990

WRITER'S DIRECT DIAL NUMBER

(513) 352-66

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20643

Attn: Jonathon Levin, Esquire

Re: AOR 1990-19

Dear Mr. Levin:

Supplement To
AOR 1990-19

90 OCT 23 PM 1:06

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

This letter responds to further questions which both you and Mr. Litchfield have posed over the telephone, regarding the facts and circumstances of the subject AOR. You have asked whether the committee with whom the Suarez Corporation proposes to engage in this transaction ("Committee") does, in fact, have an outstanding debt which would be repaid thereby. You have asked further questions regarding the specific details of the proposed transaction, which would apply to that political committee or any other committee in the future. I shall address these questions in order.

A. Relationship between Suarez and the Committee.

Suarez and the Committee entered into a contract on March 21, 1990, whereby Suarez was to provide goods and services to the Committee, including expertise to assist its efforts to nominate the candidate in a primary election. The Committee paid Suarez \$1,000.00 as a retainer upon execution of the contract. The candidate was not nominated, however, and the Committee now owes Suarez the sum of \$82,138.86. Invoices were rendered to the Committee on May 4, 1990, and no further payments have been made on the account.

Suarez has been in communication with the Committee, attempting to get the bill paid and to work on this proposed fundraising activity. Suarez will continue to seek a resolution of the debt in accordance with the Commission's regulations.

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B. Repurchase of Items.

You have asked, as well, how the Suarez Corporation will treat the repurchase of any items not sold by the Committee. Suarez will purchase the items initially from its suppliers at the fair market cost for these items. Suarez will purchase more items from its suppliers than it will actually sell to the Committee. Those items which it sells to the Committee will be sold at a price higher than Suarez' cost to purchase them. This markup will include not only the administrative cost of purchasing the items and then sending them to the Committee, but also a profit for Suarez. The items which are not sold to the Committee will be sold by Suarez in its ordinary course of business, including sales to other political committees. While Suarez will not go out of its way to compete directly with the Committee in this process, the two entities will be engaging in the same activities and might, in fact, find themselves competing with one another in certain markets.

In the event Suarez is required to repurchase items from the Committee under its contract, it will repurchase them at the same price paid by the Committee. As a result, Suarez will possess the items at the same cost it paid to buy them in the first place, and it will go forward and sell the items as though they had never been transferred to the Committee. Suarez will make its usual and normal profit on the sales to the general public or to other political committees, just as it did on the portion of items it purchased from its supplier in the first place.

I hope this answers the questions satisfactorily, but I will continue to work with the Commission to the fullest extent necessary. Thank you very much for your assistance.

Sincerely,



GORDON M. STRAUSS

GMS/pd/en5