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**DISSENTING OPINION OF
COMMISSIONER LEE ANN ELLIOTT
TO ADVISORY OPINION 1991-12**

I dissented to the Commission's initial Advisory Opinion (1990-07) to Congressman Schroeder, and I dissent to this second opinion as well.

In my dissent to 1990-07, I expressed concern that the Commission allowed an incorporated issue group to use its treasury funds to make contributions to federal candidates. These contributions were coming from a fund that was not raised for any candidate or political committee, and were not solicited with adequate disclaimers. Moreover, I was afraid this issue group would make so many contributions it would become a political committee and possibly attempt to affiliate with a principal campaign committee.

My fears have come true with the Schroeder Committee's about-face on the future of the Fund. In 1990-07, the Fund asserted it was not affiliated with the Congressman's principal campaign committees and did not concern itself with or support her candidacy. Now, in Advisory Opinion 1991-12, the Fund asserts that it will "alter its originally planned course of action centered on issues" and will attempt to transfer all its assets directly into her upcoming Congressional campaign committee.

The Commission should not have allowed this transfer. First, this Fund is a corporation and the Act prohibits "any corporation whatever" from making contributions to federal candidates. 2 U.S.C. §441b(a). While the Commission allows political committees to incorporate for liability purposes, we do not allow corporations to become political committees. There is a big difference between the two concepts.

Second, I specifically disagree with the majority opinion's statement that the Fund is "controlled by Ms. Schroeder for a campaign-related purpose." (emphasis added). Quite the opposite, the Fund has never been affiliated with any state or federal candidate's campaign, and in fact has raised money as an issue group. This means the Fund cannot qualify as a "previous Federal campaign committee." 11 CFR 110.3(c)(4). More importantly, this means the Fund is not analogous to the opinions the majority cites as precedent. (Advisory Opinions 1990-16, 1987-12 and 1984-3). Those opinions all involved the activities of state campaign committees. Each of these committees was campaign-related. Congressman Schroeder's Fund is not.

Lastly, I am worried the majority's answer sets a dangerous precedent. Under this opinion, many incorporated issue groups, organizations or foundations may become political committees under our Act. As long as a group can document the source of their funds, the majority's opinion does not seem to bar them from making contributions under the Act. In fact, some issue groups may now become affiliated with federal candidates and transfer all their treasury funds into individual campaigns without limit.

In my opinion, the Act does not allow this result, and I dissent from the majority's opinion that invites it.

June 13, 1991



Lee Ann Elliott
Commissioner