



FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

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April 16, 1992

MEMORANDUM

TO: The Commission
THROUGH: John C. Surina
Staff Director
FROM: Lawrence M. Noble
N. Bradley Litchfield
SUBJECT: Draft AO 1992-10

AGENDA ITEM
For Meeting of: APR 23 1992

Attached is a proposed draft of the subject advisory opinion.

We request that this draft be placed on the agenda for April 23, 1992.

Attachment

1
2
3 **ADVISORY OPINION 1992-10**

DRAFT

4 **Bruce H. Turnbull**
5 **Weil, Gotshal & Manges**
6 **1615 L Street, N.W.**
7 **Washington, D.C. 20036**

8 **Dear Mr. Turnbull:**

9 **This responds to your letter dated March 3, 1992,**
10 **requesting an advisory opinion on behalf of The Committee for**
11 **a Democratic Consensus ("the Committee") concerning the**
12 **application of the Federal Election Campaign Act of 1971, as**
13 **amended ("the Act"), and Commission regulations to a proposed**
14 **disbursement of funds by the Committee.**

15 **The Committee is a multicandidate political committee**
16 **which filed a Statement of Organization with the Commission**
17 **on April 27, 1984. Specifically, it wishes to make a**
18 **disbursement to the Center for Participation in Democracy**
19 **("CPD"), which you state is a nonprofit voter registration**
20 **organization located in California and tax exempt under 26**
21 **U.S.C. §501(c)(3). It is the Committee's understanding that**
22 **the funds would be used to pay legal expenses for CPD and for**
23 **a member of CPD's Board of Directors, Kim Cranston, who is**
24 **the son of Senator Alan Cranston. These legal expenses have**
25 **been incurred in connection with the investigation of Senator**
26 **Cranston's role regarding donations made to CPD by Charles**
27 **Keating, Mr. Keating's relationship to CPD, and CPD's**
28 **activities in general.**

29 **You state that Senator Cranston is the Honorary Chairman**
30 **of the Committee, but does not serve on its Board of**

3 Directors or otherwise control the organization. Various
4 individuals associated with Senator Cranston, however, have
5 served on the Committee's Board, including his Chief of
6 Staff. Although Senator Cranston has helped to raise funds
7 for CPD, he does not serve on the Board of Directors or have
8 any official role with the organization.

9 On its statement of organization, the Committee
10 indicates that it is not an authorized campaign committee of
11 Senator Cranston, and it has not identified Senator
12 Cranston's authorized campaign committee, Cranston for
13 Senate '92, Inc., as an affiliated committee. Accordingly,
14 the Commission responds to your proposal by assuming, without
15 deciding, that the Committee is not affiliated with Cranston
16 for Senate '92, Inc.

17 As a political committee not authorized by a candidate,
18 the Committee would not be subject to restrictions on the use
19 of its funds that apply with respect to principal or
20 authorized campaign committees, e.g., personal use
21 restrictions set out at 2 U.S.C. §439a and 11 CFR 113.2. See
22 Advisory Opinions 1988-13 and 1987-1. The Commission has
23 concluded that a political committee not authorized by a
24 candidate may expend its funds for any lawful purpose
25 consistent with the Act and Commission regulations. Advisory
26 Opinions 1991-21, 1986-32, 1985-34, and 1983-4. For example,
27 the Committee could not expend or disburse its funds for the
28 purpose of influencing a Federal election in excess of the
29 applicable limits of 2 U.S.C. §441a. See Advisory Opinion
30

3 1991-21. In view of your representations as to the nature of
4 CPD and the proposed uses of the funds, the Commission
5 concludes that the Committee may make the proposed
6 disbursements to CPD.^{1/}

7 The Commission emphasizes that this conclusion is based
8 on CPD's continuing qualification as a tax-exempt
9 organization under 26 U.S.C. §501(c)(3) and also on the
10 assumption that its past or future activities would not make
11 it a political committee under the Act and Commission
12 regulations. This opinion does not express or imply any
13 views as to the legality of CPD's activity if it were
14 determined to be a political committee.

15 The Commission expresses no opinion as to any tax
16 ramifications of your proposed activity, since those issues
17 are outside its jurisdiction.

18 This response constitutes an advisory opinion concerning
19 application of the Act, or regulations prescribed by the
20 Commission, to the specific transaction or activity set forth
21 in your request. See 2 U.S.C. §437f.

22 Sincerely,

23
24 Joan D. Aikens
25 Chairman for the
26 Federal Election Commission

27 Enclosures (1991-21, 1988-13, 1987-1, 1986-32, 1985-34, and
28 1983-4)

29 ^{1/} According to the 1991 year end report filed by the
30 Committee, the Committee had \$120,541 on hand with no debts
owed to or by it.