



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Concurring Opinion
to Advisory Opinion 1993-19

Joan D. Aikens, Commissioner

I approved this alternative draft to Advisory Opinion 1993-19 not because I agree totally with the results, but because I believe the Glenn for President Committee deserved an answer to their Advisory Opinion Request.

The single most important issue in this response is that Senator Glenn accepted public financing for his 1984 Presidential race. In fact, the campaign used the pledge of matching payments as collateral for the bank loans. Therefore, I agreed with the Office of General Counsel's original draft stating that the Commission could not waive the contribution limits, even after 10 years, for a candidate who accepted public financing. As harsh as this position may seem, I believe it is a necessary conclusion to protect the public financing system from abuse. The candidate, in order to be eligible for taxpayer funds, must agree to abide by certain contribution and expenditure limits, including a limit on the use of the candidate's personal funds.

In Advisory Opinion 1987-4, the Commission had permitted Senator Glenn's 1986 Senate campaign to transfer excess campaign funds to cover a portion of the 1984 Presidential debt. Based on that opinion, the 1992 primary and general Senate campaigns could have legally raised funds in excess of their needs as long as the funds were not specifically raised to retire the debt from 1984. In lieu of following the precedent set out in Advisory Opinion 1987-4, the Glenn Committee chose not to maximize the contributions to his 1992 Senate primary and general campaigns, but instead now requests that the Commission waive all contribution limits so that funds could be solicited from the contributors who had maxed out during the 1984 Presidential campaign.

I approved this alternative draft because it clearly states that the Commission will not waive the individual or committee contribution limits and will not allow unlimited funds to be given to retire this debt from "at-limit" contributors to his 1984 Presidential campaign.

I reluctantly agreed to the portion of the draft which waives Senator Glenn's personal limit and permits him to use his own funds to retire the debt. This response is restricted to the very limited circumstances of this particular matter: the campaign was 10 years ago, the Senator has expressed publicly and in his Advisory Opinion Request his desire to retire the debts to the vendors and to the banks, interest will continue to accrue on the bank loans, and there appears to be no other foreseeable means to retire the debts.^{1/} The response further makes it clear that it must be the Senator's personal funds.

Restricted as it is to these specific facts, and hoping that it will discourage rather than encourage other candidates who accept public financing from going into debt, and because I wanted it to be clear that the limits on §441a contributions will not be waived under any circumstances, I agreed to accept this draft while not totally agreeing with the outcome.

November 15, 1993

Date

Joan D. Aikens

Joan D. Aikens
Commissioner

^{1/} The Commission approved expanded debt settlement regulations on October 3, 1990, which apply to any committee attempting to settle debts in order to terminate. See 11 CFR §116.7(f)(4).