

BEN NIGHTHORSE CAMPBELL
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SECRETARIAT

United States Senate
WASHINGTON, DC 20510-0605

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October 21, 1993

The Honorable Scott Thomas
Chairman,
Federal Election Commission
999 E Street, N.W.
Room 910
Washington, D.C. 20463

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FEDERAL ELECTION COMMISSION

Dear Mr. Thomas:

I am writing upon the advice of the Senate Select Committee on Ethics to obtain an advisory opinion from the Commission regarding particular campaign activity. I enclose for the Commission's benefit copies of my correspondence with the Senate Ethics Committee.

A biography of me has been written and will be or is being distributed for sale at bookstores around the country by the publisher.

I would like an advisory opinion on the legality of my principal campaign committee purchasing some number of these biographies. The purpose of the purchase would be to distribute signed and unsigned copies of them to loyal or long-time supporters or campaign financial contributors as a thank you to these people. I'm not selling the books, nor asking them to purchase any.

I should also note that I am to receive no royalties or profits of any sort from the sale of my biography.

An added consideration, for which I seek your advice, has also to do with the purchasing process, but which situation was not known to me at the time I wrote my letter to the Senate Select Committee.

The author of my biography has indicated that the book publisher would sell some books to the campaign/my Senate staff, and members of my family at a discount rate; essentially the rate afforded to bookstores (and depending upon the size of their order). The discount price would be contingent upon a minimum purchase of 100 books. The author has explained to me that these discounts are normal in the book publishing business.

Again, my desire is to have my campaign purchase an amount of books and included in that order would be a number of books desired by my personal staff or family. Hopefully the number

would be over 100 in order to qualify for the discount. Is purchasing these books at a discount price legal under FEC law, and if so, how is the discount treated for purposes of campaign activity reporting requirements.

Please advise me as soon as possible.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Ben Nighthorse Campbell". The signature is written over the typed name and title.

Ben Nighthorse Campbell
U.S. Senator

BNC/k11

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ANNETTE M. GALLIS, CHIEF CLERK

United States Senate

SELECT COMMITTEE ON ETHICS

HART SENATE OFFICE BUILDING, ROOM 220
SECOND AND CONSTITUTION AVENUE, NE.
WASHINGTON, DC 20510-8425
TELEPHONE (202) 224-2981
October 18, 1993

The Honorable Ben Nighthorse Campbell
United States Senate
Washington, D.C. 20510

Dear Senator Campbell:

This responds to your October 5, 1993 letter concerning your biography which will be released in the next few weeks by a national book publisher for sale at bookstores across the country. You have requested an opinion on your purchase of a number of the biographies with campaign funds for the purpose of distributing signed copies of them to loyal or long-time supporters or campaign financial contributors as a thank you. You would receive no royalties or profit of any sort from the sale of your biography.

Senate Rule 38, paragraph 2, provides that "no contribution (as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 USC 431)) shall be converted to the personal use of any Member or any former Member. For the purposes of this rule 'personal use' does not include reimbursement of expenses incurred by a Member in connection with his official duties." It would appear that distributing copies of your biography to campaign supporters is an expense that is connected to your campaign rather than to your official Senate duties and thus could not be paid as an 'officially connected' expense under Senate Rule 38.

However, the expense may be a legitimate campaign expense which may be paid with campaign funds under the Federal Election Commission Act of 1971, as amended, 2 USC 431. Since that statute is under the jurisdiction of the Federal Election Commission, you would need to request an Advisory Opinion from that agency. Attached are relevant Federal Election Commission Advisory Opinions concerning campaign expenditures and an FEC brochure on how to request an Advisory Opinion. Such requests should be addressed to The Honorable Scott E. Thomas, Chairman, Federal Election Commission, 999 E St., N.W., Room 910, Washington, D.C. 20463.

If the Federal Election Commission deems the expenditure to be a legitimate campaign expense, nothing in the Senate Code of Conduct would appear to prohibit your purchasing the biographies with campaign funds for distribution to your campaign supporters so long as you received no financial benefit from the transaction and the campaign committee is charged the normal charge for the books.

Sincerely,



Victor Baird
Staff Director and Chief Counsel

United States Senate

WASHINGTON, DC 20510-0605

October 5, 1993

Mr. Victor Baird
Chief Counsel
Senate Select Committee on Ethics
220 Senate Hart Building
Washington, D.C. 20510

Dear Mr. Baird:

As I have previously written to this committee, a biography of me has been written and will shortly be released for sale to the public by a national book publisher at bookstores across the country.

Wanting to avoid a Speaker Wright-type situation, I need specific advice on the legality of purchasing some number of these biographies with campaign funds. The sole purpose would be to distribute signed copies of them to loyal or long-time supporters or campaign financial contributors as a thank you to these people. I'm not selling the books, nor asking them to purchase any.

I should also note that I am to receive no royalties or profits of any sort from the sale of my biography.

Please advise me as soon as possible. The book is to be released in the next few weeks and I would like to know whether I may do what I have proposed above.

Thank you for your attention to this request.

Sincerely,



Ben Nighthorse Campbell
U.S. Senator

BNC/k11