

Senator Frank H. Murkowski
Washington, D.C.

June 26, 1995

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

Jun 28 3 10 PM '95

Mr. Danny L. McDonald
Chairman
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. McDonald:

I make this inquiry relative to your explanation concerning legitimate charges against a Member's campaign account.

Can dues be charged to campaign expenses for memberships if the facilities are used for campaign fundraising primarily?

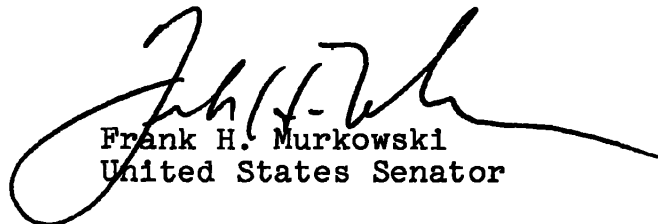
I have used the Washington Athletic Club in Seattle, Washington, for fundraising events in connection with my Senatorial reelection efforts for the past 15 years. The dues run about \$250 per year.

Any incidental expenses associated with the membership have been paid by me personally.

As a consequence of so many Alaskan activities being domiciled in Seattle, it is necessary to raise funds in Washington State.

I look forward to your early reply.

Sincerely,


Frank H. Murkowski
United States Senator

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COMMISSION
OFFICE OF SECRETARY

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 12, 1995

The Honorable Frank H. Murkowski
United States Senate
706 SHOB
Washington, D.C. 20510-0202

Dear Senator Murkowski:

Your letter dated June 26, 1995, to Chairman McDonald has been referred to this office for a response.

You ask whether campaign funds of your committee may be used to pay annual dues (approximately \$250) for your membership in the Washington Athletic Club of Seattle, Washington ("the Club"). You explain that you have used the Club facilities for fundraising events in connection with your Senatorial re-election efforts for the past 15 years. You also state that "incidental expenses associated with the [Club] membership have been paid by me personally."

As you may know, the Federal Election Campaign Act of 1971, as amended, authorizes the Commission to issue an advisory opinion in response to a "complete written request" from any person with respect to a specific transaction or activity by the requesting person. 2 U.S.C. §437f(a). The request is made public, and the Commission's opinion is also a public document. 11 CFR 112.2(a), 112.4(g). The request must concern a specific transaction or activity that "the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." 11 CFR 112.1(b). The regulations also explain that such a request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to this the request is made." 11 CFR 112.1(c). The regulations further explain that this office shall determine if a request is incomplete or otherwise not qualified as an advisory opinion request. 11 CFR 112.1(d).

Mr. Litchfield discussed several of these procedural rules with Ms. Donna Pagano of your office by telephone on July 7. In addition, he explained that recently promulgated Commission regulations may directly address your inquiry.

For your information, these regulations generally provide that campaign funds may not be spent for any personal use. "Personal use" is defined to mean any use of campaign funds to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder. 11 CFR 113.1(g). The regulations further provide, in pertinent part, that personal use includes the use of campaign funds for dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises. 11 CFR 113.1(g)(1)(i)(G).

The Commission's formal Explanation and Justification for this subsection of the regulations states that the fundraising event exception "does not cover payments made to maintain unlimited access to such a facility, even if access is maintained to facilitate fundraising activity. The exception is limited to payments for the costs of a specific fundraising event." Federal Register, February 9, 1995 (60 Fed. Reg 7862, 7866). Enclosed is a copy of the cited regulations document with relevant portions highlighted for your review.

After further consideration of this matter, you may wish to proceed with seeking an advisory opinion. If so, you will need to provide further information that will present a complete description of the relevant facts and clarify the legal issues presented in your inquiry. Please respond to the following questions.

- 1) Describe the various privileges and services associated with your Club membership that result from the payment of annual dues.
- 2) Would the proposed annual dues payment be made solely for the purpose of obtaining access to Club facilities so that you or your campaign committee may hold fundraising events using those facilities?
- 3) For the period January 1, 1994 through June 30, 1995 please state the number of campaign events (fundraising or other) that you or your campaign committee held on Club premises. Also, state the number of visits you made to the Club during the same period when no campaign event was held.
- 4) Please describe and give specific examples of the "incidental expenses" that are associated with your Club membership.

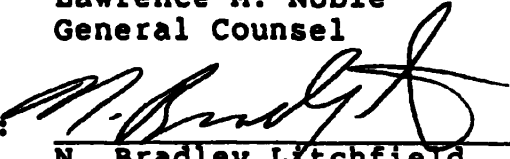
Letter to Senator Murkowski
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Upon receiving your responses to the above questions, this office and the Commission will give further consideration to your inquiry as an advisory opinion request. If you have any questions concerning the advisory opinion process or this letter, you or your staff may contact N. Bradley Litchfield, Associate General Counsel for Policy at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY:



N. Bradley Litchfield
Associate General Counsel

Enclosure

RECEIVED
FEDERAL ELECTION
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Senator Frank H. Murkowski
Washington, D.C.

July 14, 1995 Jul 19 9 30 AM '95

Mr. N. Bradley Litchfield
Associate General Counsel
Federal Election Commission
Washington, DC 20463

ADR 1995-26

Dear Mr. Litchfield:

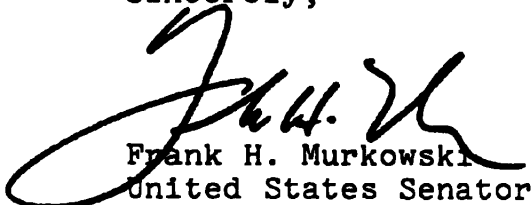
In response to your letter of July 12, I hereby seek an advisory opinion regarding annual dues payment to the Washington Athletic Club.

As requested, I have responded to the four questions presented in your letter.

1. Describe various privileges and services...
Receptions, meal services, overnight accommodations.
2. Would the proposed annual dues payment...
For the most part. Although I may stay overnight or have meals in connection with event.
3. For the period January 1, 1994 through...
Have only used Club facilities in election cycles - 1980, 1986, 1992 for campaign purposes.
4. Please describe and give specific examples...
Meals in connection with staying overnight at club when holding a fundraising event.

I appreciate further consideration of my inquiry.

Sincerely,


Frank H. Murkowski
United States Senator