

J. JAMES EXON
UNITED STATES SENATOR
WASHINGTON, D. C. 20510

February 23, 1996

Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, DC 20463

Dear Sir or Madam:

This letter is to request an Advisory Opinion in my capacity as the Assistant Treasurer of the Re-Elect Exon for U.S. Senate Committee. I am representing U. S. Senator J. James Exon in this matter.

I and the Committee want to inquire regarding the use of excess campaign funds in this account for the purpose of transferring unlimited funds to the Nebraska Democratic Party. It is our understanding that unlimited amounts of funds can be transferred from this Committee to a state party. Following this transfer, it is anticipated that the Nebraska Democratic Party would then purchase the building which they are now renting or leasing from a private individual.

Following this purchase, it is anticipated that the Nebraska Democratic Party will continue to house its headquarters in this structure, but that another part of this structure would be used as a library or center to house Senator Exon's Senate papers following his forthcoming retirement. It is also anticipated that this structure would house a replica of Senator Exon's office for the public to view, some form of interactive media for public view and a place for Senator Exon and others to work on the library. It would be envisioned that the Nebraska Democratic Party would sign a binding agreement with the Re-Elect Exon for U.S. Senate Committee before any funds would be transferred that would stipulate how the Party would manage a future library or center for housing the Senator's papers, etc. of this kind.

While Senator Exon may have access to this facility, it would be understood that he would have no direct control regarding the access of others to this facility and that the prohibitions on no personal use of excess campaign funds would continue to apply.

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It would be greatly appreciated if the Commission could review this request for an Advisory Opinion expeditiously so that work in this regard may commence. Please advise me if you have any questions, at the following address; or by calling 703 358-9050.

Thank you in advance for your consideration.

Sincerely,



Greg Pallas
Assistant Treasurer
Re-Elect Exon for U.S. Senate Committee
1947 North Calvert Street
Arlington, VA 22201



FEDERAL ELECTION COMMISSION

Washington, DC 20463

March 4, 1996

**Greg Pallas, Assistant Treasurer
Re-Elect Exon for U.S. Senate Committee
1947 North Calvert Street
Arlington, VA 22201**

Dear Mr. Pallas:

This responds to your letter dated February 23, 1996, which requests an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the transfer of excess campaign funds by the Re-Elect Exon for U.S. Senate Committee ("the Committee") to the Nebraska Democratic Party.

Your letter indicates that, in light of Senator Exon's announced retirement, the Committee expects to make an unlimited transfer of its remaining campaign funds to the Nebraska Democratic Party ("the Party"). The Party would apply these funds to the purchase of the building it currently uses as its headquarters under a lease agreement with a private individual.

After the purchase, the Party would continue to use the building for its headquarters, but another part of the structure "would be used as a library or center to house Senator Exon's Senate papers following his forthcoming retirement." Your letter further states:

It is also anticipated that this structure would house a replica of Senator Exon's office for the public to view, some form of interactive media for public view and a place for Senator Exon and others to work on the library. It would be envisioned that the Nebraska Democratic Party would sign a binding agreement with the Re-Elect Exon for U.S. Senate Committee before any funds would be transferred that would stipulate how the Party would manage a future library or center for housing the Senator's papers, etc. of this kind.

While Senator Exxon may have access to this facility, it would be understood that he would have no direct control regarding the access of others to this facility and that the prohibitions on no personal use of excess campaign funds would continue to apply.

You request an opinion so that work to develop your proposal may commence. Mr. Litchfield spoke with you by telephone on February 28 to discuss the advisory opinion process and the further information that would be needed to consider your inquiry as an advisory opinion request. As he also explained, the basic issue presented is the application of 2 U.S.C. §439a and recently revised Commission regulations at 11 CFR 113.1 which prohibit the use of excess campaign funds by any person for any personal purpose.

As you know, the Act 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 also becomes 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 an advisory opinion request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c). In addition, the regulations provide that this office shall determine if a request is incomplete or otherwise not qualified as an advisory opinion request. 11 CFR 112.1(d).

In view of the foregoing requirements, you will need to provide further information and clarification in order to proceed with requesting an advisory opinion on this matter. Please respond to the following questions and requests for further documentation.

1) Provide a copy of the contract or agreement that the Committee and the Party have signed. If there is not yet a signed contract, provide a copy of any draft agreement that is under consideration at this time. If there are no working drafts that can be submitted at this time, please indicate to that effect.

2) Explain your statement that Senator Exxon will have "no direct control regarding access" to the library facility, and give specific examples of any forms of indirect or implied control that he or his agents may have with respect to planning, constructing and future use of the facility.

3) Will Senator Exxon or his agents have approval or veto power over any decisions or policy rules governing access to the library and his Senate papers that are placed in the library?

4) What role or power will Senator Exon have with respect to the employment or supervision of personnel (including paid staff of the Party) who will have authority to administer and direct the operations of the library facility?

5) Will the facility include an office or other floor space that would be reserved for Senator Exon's use or that of his agents or employees? Explain and give examples of any such arrangements that are under consideration.

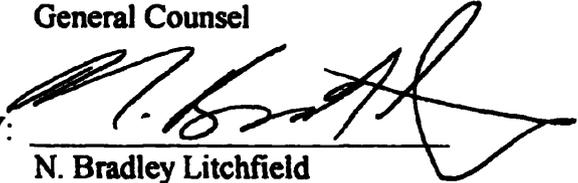
6) Will the Party or any other person pay the salary or other compensation of individuals who use the library area or other space in the Party headquarters to perform research, writing or editorial services for Senator Exon? Explain and describe any such arrangements that may be under consideration.

Upon receiving the requested documents and your responses to the foregoing 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, please contact Mr. Litchfield. His number is (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY:



N. Bradley Litchfield
Associate General Counsel

Enclosures
Cited regulations

J. JAMES EXON
FEDERAL ELECTION
UNITED STATES SENATOR
WASHINGTON, D.C. 20510

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MAR 25 9 43 AM '96 MAR 22 10 26 AM '96

March 21, 1996

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

AOR 1996-09

Dear Mr. Noble:

This letter is in response to the Commission's letter of March 4th which was in response to my letter to the Commission of February 23, 1996. I am pleased to provide the further information and clarification which was requested in order to proceed with the issuance of an Advisory Opinion on the matter of the transfer of excess campaign funds by the Re-Elect Exon for U.S. Senate Committee. I will respond to the questions raised by the Commission in the same order as they are presented in the March 4th letter.

The Committee and the Nebraska Democratic Party have not yet signed or produced a draft agreement that is under consideration at this time. Rather, the plan was to use the guidance of the Commission to produce an acceptable agreement.

Regarding the fact that Senator Exon will have "no direct control regarding access" to the library facility, it is anticipated that the Nebraska Democratic Party would set the parameters of hours of operation and admittance to this facility. With regard to Senator Exon's Senatorial papers, etc., they will already be catalogued and ready for transfer to this facility before being physically located there. Because of Senator Exon's intimate knowledge of his papers, it is anticipated that he would provide guidance and input regarding the construction and accuracy of displays and the layout, etc. However, once these decisions are made and executed, the Nebraska Democratic Party would retain control of this facility with respect to planning, construction and future use. All concerned parties would, of course, follow any Commission guidance on this matter.

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With regard with the Commission's third question, since Senator Exon has sole discretion and authority regarding the disposition of his papers, he therefore would be making decisions regarding public access to his papers before he leaves office. Once he leaves office and his papers are deposited in this facility, the Party would govern access to the library and his papers.

Senator Exon would anticipate having no role or power with respect to the employment or supervision of personnel (including paid staff of the Party) who will have authority to administer and direct the operations of the library facility, although he may be consulted occasionally regarding the accuracy of displays, etc.

In response to the Commission's question regarding an office or other floor space that would be available for Senator Exon's use or that of his agents or employees, the Committee expresses the hope that a way can be found to provide for some work space for Senator Exon within this facility on an occasional basis, principally, with regard to the work of the library. That could take the form of an office which is available and open to the public, but where he could also work from time to time and greet visitors, etc. The Committee wants to emphasize as strongly as possible that it and Senator Exon will abide by the spirit and letter of the law disallowing personal use of excess campaign funds and invites the Commission's guidance on this particular matter.

With regard to the last question raised by the Commission, it is not envisioned that the Party or any other person acting on behalf of the Party would pay the salary or other compensation of individuals who use the library area or other space in the Party headquarters to perform research, writing, or editorial services for Senator Exon.

I hope that the foregoing information will be considered complete so that the Commission can issue an Advisory Opinion on this matter. If I can answer

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March 21, 1996
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any further questions, please do not hesitate to
contact me. I look forward to your response.

Sincerely,



Greg Pallas
Assistant Treasurer
Re-Elect Exon for U. S. Senate Committee
1947 North Calvert Street
Arlington, VA 22201
(703) 358-9050