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Congress of the United States
House of Representatives
Washington, DC 20515-3215

April 8, 1996

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PLEASE RESPOND TO
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Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, DC 20463
Attn: N. Bradley Litchfield, Associate General Counsel
Re: AOR 1996-12

Dear Mr. Litchfield:

I would like to thank you for the extension of the deadline for additional comments on Dr. Fulani's Advisory Opinion Request. As per your conversation with Ms. Santiago on April 8, 1996, you agreed to extend the deadline to April 12, 1996.

I am writing to comment on the questions posed to the Federal Election Commission by Dr. Lenora B. Fulani in her Advisory Opinion Request that you have designated AOR 1996-12.

I have previously written the Commissioners regarding my concerns about the criteria used by the Commission in the initial repayment determination it issued to Dr. Fulani last summer. In my letter of March 15, 1996, to Chairwoman Elliot, I said:

The novel standard of "non-arms length" to describe and delegitimize the relationships between Dr. Fulani's campaign committee and some of her vendors was, in my opinion, a problematic departure from the Commission's normal standards, which would not only have unfairly injured Dr. Fulani, but would have set a dangerous and disabling precedent for other candidates and campaigns.

This AOR gives the Commission the opportunity to set a positive and clarifying precedent regarding its review of candidates' expenditures.

I urge the Commission to commit itself in this advisory opinion to using only objective criteria set forth in statutes and regulations to determine whether expenditures are "qualified" expenses. Subjective terms like "arms length" and "solely for the benefit of the collective" have no proper place in election law enforcement, and especially not if invoked in a selective, ad hoc, and apparently discriminatory manner.

Comment On
AOR 1996-12

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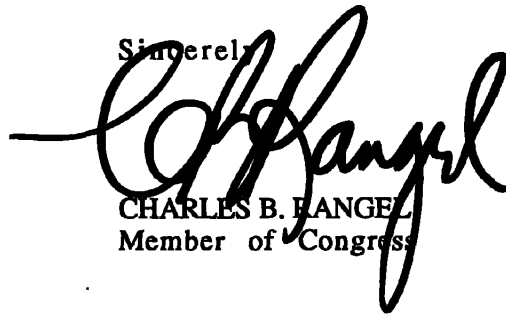
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COUNSEL

Based on these principles, Dr. Fulani's first question should be answered affirmatively, and her questions 2, 4, 6, 8, 10, 12, and 14 should be answered in the negative. So far as questions 16-19 are concerned, I think that the FEC should not use the criterion "not at arms length" at all. If the Commission thinks there is some need for a concept like this to effectuate the federal campaign finance laws, then it should issue a Notice of Proposed Rulemaking and set forth a rationale for clearly defined rules of general applicability to fulfill that need. But it is too late to apply any such concepts to the 1996 election campaign (let alone Dr. Fulani's 1992 expenditures).

Dr. Fulani is a recognized and respected leader who has won the respect of a great many people -- particularly African-Americans and women -- including those who may disagree with her political decisions. She has twice qualified for federal primary matching funds for her presidential campaigns. The Commission should issue an advisory opinion that leaves no doubt that she, and other candidates, including ones like her who represent traditionally excluded and underrepresented Americans, can participate in the federal campaign funding program in 1996 and in all future years without fear of being subjected to enforcement actions and repayment orders based on improper criteria.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "C. B. Fangel", written in a cursive style. The signature is positioned above the printed name and title.

CHARLES B. FANGEL
Member of Congress

cc: Congressional Black Caucus
Dr. Lenora Fulani

CBR/ms