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ATTORNEY AT LAW

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COMMISSION  
SECRETARIAT

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COMMENTS

AOR 1996-12

April 4, 1996

Federal Election Commission  
Office of General Counsel  
999 E Street, Northwest  
Washington, D.C. 20463

Re: Advisory Opinion request of  
Lenora B. Fulani, Ph.D.

Ladies & Gentlemen:

I have seen the March 25, 1996 Advisory Opinion Request of Dr. Fulani and am happy to take advantage of the opportunity to comment with respect to it.

I enclose a copy of a letter of mine dated October 10, 1995 addressed to Chairman Danny L. McDonald. The principles to which I refer in that letter are applicable to the AOR of Dr. Fulani. I do hope that, in formulating your responses to the detailed questions posed by her, you will adhere to the concepts of non-discriminatory equality required by our Constitution and system of law and will rely upon articulated objective standards which do not transgress the constitutional rights of association.

I do hope that your Advisory Opinion will be detailed and supported by expressively set forth rationales.

Very truly yours,

JEREMIAH S. GUTMAN

c: Harry Kresky, Esq.

JSG:bes  
Encl.

LAW OFFICES

LEVY, GUTMAN, GOLDBERG & KAPLAN

LEOPOLD LEVY 1913-1929  
THEODORE GUTMAN 1913-1948  
GEORGE GOLDBERG 1913-1980  
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October 10, 1995

Honorable Danny L. McDonald, Chairman  
Federal Election Commission  
999 E Street, Northwest  
Washington, DC 20463

WESTCHESTER OFFICE  
2 RIVERVIEW PLACE  
HASTINGS-ON-HUDSON, N.Y. 10706  
914/478-3559

Re: Lenora Fulani - LRA No. 451

Dear Commissioner McDonald:

It has come to my attention that an assessment is being made against Doctor Fulani and her party on the ground that the persons to whom disbursements made in connection with supporting her campaign for President of the United States were not sufficiently distanced from her to satisfy your standardless concepts of interconnection and arms length. Not only does such a position interfere with the right of a candidate to run for office and the right of people to vote for whom they choose, it constitutes a denial of due process of law by the imposition of penalties based upon subjectively defined phrases.

Furthermore, it constitutes an impermissible interference with the First Amendment rights of people freely to associate with each other.

If there is evidence of fraud or bill padding, and I am confident that had you such evidence you would have presented it, the situation would be different. The concept of doing business with friends, particularly in a political contest, is a venerable part of the capitalistic and democratic system.

Your perversion of the law is a danger to the very principles upon which this country rests.

Very truly yours,

  
Jeremiah S. Gutman

JSG/wl

cc: Honorable Lee Ann Elliot  
Honorable Joan D. Aikens  
Honorable John Warren McGarry  
Honorable Trevor Potter  
Honorable Scott E. Thomas  
Doctor Lenora B. Fulani