

MEL HANCOCK
7TH DISTRICT, MISSOURI

COMMITTEE ON
WAYS AND MEANS



SUBCOMMITTEES:
TRADE
OVERSIGHT

Congress of the United States
House of Representatives
Washington, DC 20515-2507

September 5, 1996

N. Bradley Litchfield
Associate General Counsel
Federal Election Commission
999 E St., NW
Washington, DC 20463

AOR 1996-40
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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL

Dear Mr. Litchfield:

In reply to your letter of July 31, 1996 pertaining to contribution of campaign fund balances to the Taxpayers' Survival Association, an advisory opinion is requested.

Previous correspondence describes the circumstances of this request, therefore this letter will only address the specific questions of your July 31, letter.

My status with the TSA will not change after I leave office. For almost 20 years I have donated money, time, office facilities, and my wife has voluntarily, along with other volunteers, provided office secretarial labor.

Effective January 1997, I plan to begin drawing social security at age 67. This would preclude me from a salaried position. I will not receive any compensation from the TSA and neither will any family member or resident of my household.

It is possible the TSA may employ an executive director at some time in the future. Present plans do not contemplate doing so, and no present or former congressional staff, or campaign staff, are being considered.

Thank you for your previous promptness in replying.

Sincerely,

Mel Hancock
Member of Congress



FEDERAL ELECTION COMMISSION

Washington, D.C. 20463

July 31, 1996

The Honorable Mel Hancock
United States House of Representatives
Washington, D.C. 20515

Dear Representative Hancock:

This responds to your letter dated July 16, 1996, with enclosures, which requests an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposed donation by your campaign committee to the Taxpayers' Survival Association, a nonprofit corporation formed under Missouri statutes.

According to widely reported information, you are not seeking re-election to the House in the 1996 election cycle. There is also no indication that you are seeking election to any other Federal office. Thus, your inquiry presents the question of whether the proposed donation by your campaign committee to TSA is a permissible use of your residual campaign funds.

The materials submitted with your letter indicate that the Taxpayers' Survival Association ("TSA") has been recognized by the Internal Revenue Service as a qualified educational foundation under 26 U.S.C. §501(c)(3). IRS Publication 78 (1991) includes a listing for TSA as an entity described in §170(c) of the Internal Revenue Code. The submitted materials also state that TSA was formed by you in 1977, and you have continued to serve at its President and Chairman of the Board. Your letter dated June 25, 1996, to the House Committee on Standards of Official Conduct, explains that at "no time has there been any inurement to me. The by-laws prohibit any director from being paid a salary or director fee." In addition, the June 25 letter notes that reimbursement of incidental expenses for travel and lodging to attend TSA meetings is allowed under the by-laws.

You have not stated if your status with TSA will change after you leave office in January 1997. Or if you would then assume an executive officer position with TSA that would result in the payment of salary or other compensation benefits to you. You have also not stated whether any member of your family has, or will have in the future, any position with TSA for which salary or other compensation is or would be payable.

As you may 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 goes on public record and must concern an activity that "the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." 11 CFR 112.1(b), 112.2(a). 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). The regulations further 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 addition, both the Act and Commission regulations state that no Commission employee may give any opinion of an advisory nature, except through the advisory opinion process. 2 U.S.C. §437f(b), 11 CFR 112.4(f). The staff may, however, distribute information that correctly summarizes the Act and Commission regulations or that represents Commission precedent interpreting those provisions of law. See 11 CFR 112.4(f).

Given the foregoing provisions and if you wish to request an advisory opinion on this matter, you will need to provide additional information about your future relationship with TSA, as well as the current (and future) relationships of any member of your family with TSA. Furthermore, you should also indicate whether TSA expects to employ and compensate any person, who is now a member of your Congressional staff or campaign committee staff, after your current term ends.

For your information and guidance, I note several relevant provisions of the Act and Commission regulations. First, the Act provides that campaign funds may be donated to any organization described in 26 U.S.C. §170(c), but may not be "converted by any person to any personal use." 2 U.S.C. §439a, 11 CFR Part 113. The regulations state that donations from campaign funds to §170(c) organizations are not personal use, unless the candidate (former or current) receives compensation from the donee organization before it has expended the entire amount donated for purposes unrelated to his (or her) personal benefit. 11 CFR 113.1(g)(2). Lastly, I am enclosing copies of past advisory opinions that have considered uses of campaign funds which, in some respects, appear similar to your situation. See Advisory Opinions 1996-9, 1993-13 and 1983-27. As you may know, any person can rely on an opinion issued to another if the facts and circumstances of the relying person are "indistinguishable in all...material aspects" from the activity presented in the past opinion. 2 U.S.C. §437f(c).

Upon receiving your responses to the questions stated above, this office and the Commission will give further consideration to your inquiry as an advisory opinion request. If you have any questions about the advisory opinion process, the cited opinions and regulations, or about 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 opinions and regulations



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FEDERAL ELECTION
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JUL 19 2 21 PM '96

HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

MEL HANCOCK
SEVENTH DISTRICT
MISSOURI

July 16, 1996

Brad Litchfield
Associate General Counsel
Federal Election Commission
999 E St., NW
Washington, DC 20463

Dear Mr. Litchfield:

I am writing to request an advisory opinion on a proposed contribution by my campaign committee described in the enclosed letter to the House Committee on Standards of Official Conduct.

As their response indicates, such a contribution would be consistent with the rules of the House. I would appreciate an opinion as to whether such contribution would be consistent with federal election law and what limitations might apply.

Thank you for your assistance with this matter.

Sincerely,



Mel Hancock
Member of Congress

Enclosures:

- 1) June 25, 1996 Letter to House Standards Committee
- 2) July 3, 1996 Reply from House Standards Committee