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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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MEMORANDUM

TO: THE COMMISSION

FROM: SCOTT E. THOMAS *ST*
VICE CHAIRMAN

SUBJECT: PROPOSED REVISIONS TO
ADVISORY OPINION 1997-21

DATE: APRIL 9, 1998

AGENDA ITEM
For Meeting of: 4-16-98

I submit the attached proposed revisions to AO 1997-21 for consideration at the Commission meeting of April 16, 1998.

at Page 2, lines 12-23:

forgave the ~~loans~~ advances³ so that the Committee could be terminated in accordance with 11 CFR 102.3 and 104.1(a). However, You explain that you mistakenly recorded ~~this transaction~~ the circumstances surrounding these transactions as an "in-kind" contribution on the post-election ~~termination~~ report of the Committee, rather than advances forgiven ~~without disclosing that this transaction was, in fact, the forgiveness of a loan to the~~ Committee by Ms. Firebaugh.

During the first half of 1997, the Committee continued to pay all of its debts in preparation for terminating. You explain that to enable the Committee to do so that the candidate once again advanced her own funds in order to meet the Committee's obligations. On January 27, 1997, she loaned the Committee \$7,723 of her personal funds for this purpose. This transaction was reported on the July Mid Year report as a loan from the candidate. ~~More recently~~ On March 20, 1997 the Committee received a refund check from its media firm for \$46,131 for prepaid advertising that was not run. You state that

³ Although you refer to the transactions as loans by Ms. Firebaugh, in fact these circumstances represent advances. Rather than loaning money to the Committee, Ms. Firebaugh was paying off creditors with the hope of receiving reimbursement.

at Page 4, line 18:

(Footnote 3 becomes footnote 4.)

at Page 5, lines 14-23:

explaining that the reported November 20, 1996 transactions ~~was were~~ intended as a ~~loan, to be forgiven by the candidate,~~ advances but ~~was were~~ mistakenly reported as simply an in-kind contribution, the Commission accepts the status of the transactions as ~~a loan~~ advances. Since your circumstances are ~~identical~~ similar to those in Advisory Opinion 1980-114, the Commission concludes that the Committee may use the media refund proceeds, as well as other Committee funds that remain following the final settlement of Committee debts, to repay the \$132,723 in advances and loans made by the candidate.

Finally, because the Committee had erroneously reported the November 20 (1996) repayment by the candidate of the committee's \$100,000 loan and other outstanding debts simply as an in-kind contribution, it is now required to amend its 30-day post election report (filed December 5, 1996) and subsequent reports to designate the transactions as ~~a loan~~ advances from the candidate to the