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March 6, 1998

VIA FAX & FIRST CLASS MAIL

Michael Marinelli, Esq.
Office of General Counsel
Federal Election Commission
6th Floor
999 E Street, N.W.
Washington, D.C. 20463

Re: Reconsideration of Advisory Opinion 1997-21

Dear Mr. Marinelli:

As counsel to the Firebaugh for Congress Committee ("Committee"), we respond to the Office of General Counsel's letter of December 9, 1997. In that letter, the Office requested additional information so that it could make a recommendation to the Commission on whether to reconsider Advisory Opinion 1997-21.

Much of the information the Office seeks can be gleaned from the affidavits and correspondence which it has already received. Moreover, the Office seeks detailed information about the previous state and local political involvement of the candidate and treasurer, which does not seem directly relevant to their understanding of highly technical matters unique to the Federal Election Campaign Act and its accompanying regulations.

Nevertheless, the Committee is willing to provide whatever information you need for your recommendation. It responds to each of your questions in turn:

1. As Mr. Rorex noted in his affidavit of November 3, 1997, Ms. Firebaugh's campaign was the first time he had ever been a treasurer of a principal campaign committee, or held any similar position. Besides having been a candidate for state representative on one occasion over ten years ago, he had never held any position with any other political organization, whether local, State or Federal.

Re: Reconsideration
Ad 1997-21

Mar 10 11 32 AM '98
FEDERAL ELECTION COMMISSION

Michael Marinelli, Esq.
March 6, 1998
Page 2

2. As Ms. Firebaugh indicated in her affidavit of November 2, 1997, she had never previously been a candidate for Congress. She had never been a candidate for any other political office, Federal or otherwise. She had never held any position of authority in any other candidate's campaign organization.

3. As noted above and in the affidavits, with the sole exception of Mr. Rorex's one-time local candidacy, neither Mr. Rorex nor Ms. Firebaugh had previously run for office or held any position with any other campaign. Consequently, they had not previously retained the services of the media company that provided the refund in this case, nor had they employed any of the same individuals who had contact with the Committee as agents or employees of its media services company.

4. Finally, as Ms. Firebaugh and Mr. Rorex have both stated in sworn affidavits, they understood that the Committee would repay Ms. Firebaugh if possible, for the \$103,499.99 she paid the bank on November 20, 1996. Their understanding arose during the preparation and filing of the application for the Committee's June 25, 1996 loan. Both Ms. Firebaugh and Mr. Rorex then anticipated that if Ms. Firebaugh, the loan's guarantor, were forced to make any of the loan payments personally, the Committee would ultimately repay her.

We would observe that in its request for memos, notes, canceled checks, e-mails, and other documents unlikely to be exchanged between candidates and their treasurers during the heat of a campaign, the Office of General Counsel appears to suggest an alternative interpretation of events that is simply less logical than the one which the affidavits support. In the normal course of business, a loan guarantor who is forced to make payments on the borrower's behalf generally expects the borrower to repay her, if the capacity for repayment exists. There is nothing unusual about this expectation; in fact, any different expectation would be most unusual.

Michael Marinelli, Esq.
March 6, 1998
Page 3

In its request for reconsideration, the Committee simply asks the Commission to clarify the consequences of a highly arcane reporting error in a manner that is fair to a novice candidate, completely consistent with the Act, and respectful of the public interest. The Committee remains willing to provide any information necessary to such an outcome.

Very truly yours,



Judith L. Corley
Brian G. Svoboda