

6/9/98

Federal Elections Commission
Office of the General Counsel
999 E. Street, NW
Washington, DC 20463

Dear Sirs,

I am officially a candidate running as a Republican for the US Senate to represent Hawaii.

RE: Fund Raising 11 CFR 112.1(b), 103.3(b)

Currently the Federal Election Law specifically allows Legal Residents and US Citizens to donate to US Senate and Congressional Campaigns. The law is silent about people who can legally come and go from the US, and legally work in the US without restriction due to treaty or compact with a Foreign Government. Due to the fact I have two years teaching experience in Micronesia, it is my hope to be able to get financial support from people who live in and are citizens of the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau (as well as the US Citizens (or dual) that may reside there currently) who desire closer relationships with the US. May I please have an Advisory Opinion on accepting funds from those citizens of countries in Compact of Free Association with the United States? Because of their full freedom to immigrate, work and live in the US (or US Territories) without restriction.

Please expedite this request, as I am in process of raising funds now and would like to include them in the process.



EUGENE F. DOUGLASS FOR US SENATE
Campaign Committee
P.O. Box 6129
Hilo, HI 96720
email: douglass98@mailexcite.com



FEDERAL ELECTION COMMISSION

Washington, DC 20463

June 18, 1998

**Eugene F. Douglass
P.O. Box 6129
Hilo, HI 96720**

Dear Mr. Douglas:

This responds to your letter dated June 9, 1998, which requests an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to your possible acceptance of contributions from certain non-citizens and non-residents of the United States in your 1998 campaign for the United States Senate from the State of Hawaii.

In summary, you state that you wish to accept campaign contributions from individuals "who live in and are citizens of" the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau. You also propose to accept contributions from United States citizens who currently reside in one of the cited territories or possessions. In addition, you apparently seek an advisory opinion on accepting campaign contributions "from those citizens of countries in Compact of Free Association with the United States." You do not identify the "countries" that you have in mind.

The campaign finance information reported by your principal campaign committee to the Commission indicates that, as of March 31, 1998, your campaign has made expenditures totaling less than \$1500 and has accepted contributions of only \$25. As you may know, you are not considered to be a Federal candidate under the Act or Commission regulations until your financial activity (including campaign spending on your behalf by others who are authorized by you) to influence your nomination or election exceeds \$5,000 in either contributions received or expenditures made. 11 CFR 100.3(a). Financial activity would include amounts you spend from your personal funds (whether or not you receive any contribution from any other person) to qualify as a candidate under Hawaii law. It is not clear whether you expect to have over \$5,000 in campaign expenditures or contributions for your 1998 campaign. If you do not become a candidate as defined in the Act, it will probably make no difference whether the proposed contributions would be lawful or unlawful under the Act and Commission regulations.

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 must concern a specific transaction or activity that "the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." 11 CFR 112.1(b). Inquiries posing only a hypothetical question will not qualify for an advisory opinion. 11 CFR 112.1(b). The regulations also explain that such a 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 view of the above requirements, you should clarify your status as a candidate for Federal office. If you have become a candidate by virtue of campaign expenditures made, or contributions received, since March 31 that now exceed \$5,000, you will need to confirm that. You will also need to provide further information that will provide a complete description of the other relevant facts and clarify the legal issues presented by your inquiry. Please respond to the following questions:

- 1) If you have reference to other Pacific Island entities, besides the three listed above, please identify them.
- 2) Describe the U.S. immigration status and documentation required to be held by persons who reside in the listed Pacific Island entities (and also each other entity that you identify in response to the first question) which permits them to enter and leave the United States at will and to legally accept employment in the United States. If possible, your answer should include pertinent references and citations to the United States Code and relevant regulations in the Code of Federal Regulations.

For your information, I am enclosing a copy of Advisory Opinion 1994-28 which addresses campaign contributions by U.S. nationals of American Samoa. Although American Samoa is not mentioned in your letter, the opinion illustrates how the Commission has most recently addressed a somewhat similar question. I note, however, that the legal status of American Samoa may be different than that of the Pacific Island territories you have cited.

Based on my preliminary review of your inquiry it does appear that some of your questions are answered directly by the Act and Commission regulations. Because legal interpretations may not be needed, it follows that an advisory opinion also seems unnecessary as to those questions. Specifically, under the Act and Commission regulations, a United States citizen is permitted to make an otherwise lawful campaign contribution even if he or she is residing outside the U.S. at the time the contribution is made. Such persons, if they remain U.S. citizens, are never foreign nationals. 2 U.S.C. §441e and 11 CFR 110.4(a)(4)(iii). Copies of these citations are enclosed. In addition,

Letter to Eugene F. Douglass
June 18, 1998
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although it is not addressed by the Act, I understand that under United States law there is no recognition of "dual citizenship" in both the United States and another nation.

If you have any questions about this letter, the advisory opinion process or the enclosed materials, please contact me. If you still believe you need to seek an advisory opinion from the Commission, you will have to submit responses to the above questions. This letter, without the enclosures, is being sent by Internet e-mail (douglass98@mailexcite.com) given the exigency stated by you. A first class mailing with the enclosures will follow.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Bradley Litchfield', written over a horizontal line.

N. Bradley Litchfield
Associate General Counsel

Enclosures
AO 1994-28
2 U.S.C. §441e
11 CFR 110.4(a)

Subject: Compact of Free Associations
Date: Tue, 23 Jun 1998 11:58:00 -0400
From: Gene Douglass <70117.417@compuserve.com>
To: brlitch@FEC.GOV

Eugene F. Douglass for US Senate
Campaign Committee
P.O. Box 6129
Hilo, HI 96720
808-933-9119
email:70117.417@compuserve.com

N. Bradley Litchfield
Associate General Counsel
Federal Elections Commission
Washington, DC 20463

AOR 1998-14

Dear Sir,

I am officially a candidate because in May of 1998 our campaign incurred a liability of \$8700 to the Washington Times publishing group for advertising in their publications.

Your questions:

1) The countries currently in Compact of Free Association with the United States include:
The Federated States of Micronesia, The Republic of Palau, and the Republic of the Marshall Islands.

2) I do not know the answer to the second question. I do know that they are entitled to freely immigrate, come and go, and work in the United States due to the provisions of the Compact of Free Association.

Therefore, because many of them who are "foreign nationals", are entitled to freely immigrate, to work in the United States, and to come and go as they please; Are they considered people with "green cards" or US "Nationals", or some other status so they can contribute to US Congressional Campaigns?

I would like to advertise in the Guam newspaper, the Pacific Daily News that reaches throughout that region that includes these countries, and includes Guam and the Northern Marianas (which being US Territories are entitled). I do not want to have to worry about immigration/citizenship status of contributors from those areas, because surnames would not be indicative of status.

Sincerely,

*

Eugene F. Douglass

* Signed letter expected via 1st class mail.

ACG [Signature]