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FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 13, 1998

AGENDA ITEM
For Meeting of: 8-20-98

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkonig
Acting Staff Director

FROM: Lawrence M. Noble
General Counsel

N. Bradley Litchfield
Associate General Counsel

Michael G. Marinelli
Staff Attorney

SUBJECT: Draft AO 1998-16

SUBMITTED LATE

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for August 20, 1998.

Attachment

1 **ADVISORY OPINION 1998-16**

2
3 **James Bopp, Jr., Esquire**
4 **Bopp, Coleson & Bostrom**
5 **1 South 6th Street**
6 **Terre Haute, Indiana 47807-3510**

DRAFT

7
8 **Dear Mr. Bopp:**

9
10 **This responds to your letter of July 9, 1998, which requests an advisory opinion**
11 **concerning the application of the Federal Election Campaign Act of 1971, as amended**
12 **("the Act"), and Commission regulations, to certain expenses paid by Amway, a**
13 **corporation, on behalf of its executive officers.**

14 **You indicate that your request is submitted on behalf of Restoring the American**
15 **Dream ("the Committee") which, you state, is not connected to Amway.¹ The chairman**
16 **of the Committee is Richard M. DeVos, Jr. As chairman of the Committee, he is often**
17 **required to travel in order to conduct Committee business. Mr. DeVos is also the**
18 **president of Amway. You state that Amway executives are required by corporate policy**
19 **to have an executive security officer present during all travel away from office**
20 **headquarters "to maximize protection and to minimize the risk of assault and kidnapping**
21 **of executive officers and their family members." You further explain that in order to**
22 **protect its corporate executives, Amway provides security no matter where, or in what**
23 **capacity, the Amway executives are traveling. The salaries and travel expenses of the**
24 **executive security officers are paid by Amway. Travel by executive officers of Amway is**
25 **required to be aboard corporate aircraft whenever the appropriate corporate aircraft is**
26 **available.**

¹ The Commission will assume, for purposes of this opinion, that the Committee is a political committee without a "connected organization." See 2 U.S.C. 431(7) and 11 CFR 100.6.

1 You ask whether corporate payments for this "mandatory" security protection,
2 which is furnished by executive security officers (employed by Amway) to Mr. DeVos
3 when he is conducting business for the Committee, is a contribution or expenditure under
4 2 U.S.C. §431(8) and (9). You further ask whether such payments are prohibited
5 corporate contributions under 2 U.S.C. §441b.

6 Under 2 U.S.C. §431(8)(A), the term "contribution" includes: (i) any gift,
7 subscription, loan, advance, or deposit of money or anything of value made by any person
8 for the purpose of influencing any election for Federal office; or (ii) the payment by any
9 person of compensation for the personal services of another person which are rendered to
10 a political committee without charge for any purpose. Expenditure is defined under 2
11 U.S.C. §431(9)(A) as: (i) any purchase, payment, distribution, loan, advance, deposit, or
12 gift of money or anything of value, made by any person for the purpose of influencing any
13 election for Federal office; and (ii) a written contract, promise, or agreement to make an
14 expenditure.

15 Under 2 U.S.C. §441b(b) it is unlawful for any corporation whatever to make a
16 contribution or expenditure in connection with any Federal election. For purposes of
17 section 441b the term "contribution or expenditure" shall include any direct or indirect
18 payment, distribution, loan, advance, deposit, or gift of money, or any services, or
19 anything of value (except for qualified bank loans) to any candidate, campaign committee,
20 or political party or organization, in connection with any Federal election.

21 The Commission notes that in the circumstances you have outlined, the protective
22 security services would be provided to an individual in his capacity as an executive officer
23 of the corporation, Amway. The services would be provided irrespective of his Amway

1 duties and would not be initiated for the purpose of facilitating such duties. From the facts
2 presented, it does not appear that the security officers would enhance the Committee's
3 political activity or its administration. In this regard, the Commission assumes that the
4 Amway security officers would not perform any services related to Committee functions,
5 including any assistance to Mr. DeVos in connection with his performance of Committee
6 business. The Commission concludes that the costs of mandatory security protection
7 provided to Mr. DeVos, including the travel expenses of security personnel assigned to
8 him, in the circumstances you describe, would not be a contribution or expenditure under
9 2 U.S.C. §§431(8)(A), 431(9), or 441b(b)(2). Therefore, since the Committee would not
10 receive a contribution and since Amway would not make a contribution or expenditure as
11 defined in the Act, the payment by Amway for the protective security personnel and the
12 related travel expenses would not be prohibited by 2 U.S.C. §441b.²

13 This response constitutes an advisory opinion concerning the application of the
14 Act, or regulations prescribed by the Commission, to the specific transaction or activity set
15 forth in your request. See 2 U.S.C. §437f.

16 Sincerely,

17
18 Joan D. Aikens
19 Chairman
20

21 Enclosures (AOs 1984-48 and 1992-3)
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² The Commission also notes your statement that Amway executive officers are required to travel by corporate plane when such aircraft are available. Because you have limited the request to the travel and other costs of the security personnel rather than the executive officer receiving the protection, the Commission does not consider in this opinion whether providing travel services to Mr. DeVos to travel on Committee, rather than Amway, business would be prohibited by 2 U.S.C. §441b. The Commission further notes that Mr. DeVos is not a candidate for Federal office; therefore, the request does not concern payments by a corporation to provide personal security services to such a candidate. See Advisory Opinion 1984-48, see also Advisory Opinion 1992-3.