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ROBERT E. TARCZA*
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**ALSO ADMITTED IN VIRGINIA AND
THE DISTRICT OF COLUMBIA

November 13, 1998

Lawrence M. Noble
Federal Election Commission
999 E. Street, NW
Suite 657
Washington, DC 20463

Re: Repayment of disbursements made by The Re-Elect Mary Landrieu for Senate Committee, Inc., predecessor to The Friends of Mary Landrieu, Inc.

Dear Mr. Noble:

I am writing to you as counsel to The Friends of Mary Landrieu, Inc., the successor (by name change only) to The Re-Elect Mary Landrieu for Senate Committee, Inc. (collectively referred to as the "Landrieu Committee") in order to obtain an advisory opinion. The purpose of this opinion request is to receive your guidance regarding the repayment of certain debts owed to the Landrieu Committee by the Louisiana Contested Election Trust Fund (the "Trust Fund").

The Trust Fund was established in July of 1997 pursuant to the regulations governing trust funds to pay legal expenses incurred by members, officers and employees of the United States Senate (the "Ethics Committee Regulations") adopted by the Select Committee on Ethics of the United States Senate (the "Ethics Committee"). The Trust Fund is the successor of the Louisiana Contested Election Fund, Inc. which was established in March of 1997. The Trust Fund was established to raise and expend funds necessary to defend an election challenge brought by Senator Landrieu's general election opponent in the 1996 election cycle.

The Landrieu Committee disbursements to the Trust Fund are as follows:

	DATE	AMOUNT
1.	3/28/97	\$ 3,000.00
2.	4/07/97	\$ 5,000.00
3.	4/18/97	\$ 8,000.00
4.	5/05/97	\$23,000.00
5.	5/28/97	\$20,000.00
6.	6/16/97	\$38,000.00

I am advised that Landrieu Committee disbursements in connection with the Election Challenge were made from funds raised by the Landrieu Committee pursuant to federal law governing campaign finance. Accordingly, I understand that all funds loaned to the Trust Fund meet federal campaign finance Contribution limits and source restrictions, and because the funds were used for an election challenge defense, are expressly excepted from the definition of an "Expenditure" under the Federal Election Campaign Act and accompanying regulations for the FEC (the "FEC Act").

As the disbursement of the funds by the Landrieu Committee was not an Expenditure, but in the nature of an investment to capitalize the Trust Fund, repayment of the disbursements is then not a "Contribution" to the Landrieu Committee, but a return of the capital investment (which ultimately had been used in the election challenge defense by the Trust Fund).

Please note that the disbursements from the Landrieu Committee to the Trust Fund were made necessary by the Ethics Committee Regulations. Elected Senators who must quickly raise significant funds to finance the defense of his or her election in an election contest must do so using an approved trust fund arrangement formed under the Ethics Committee Regulations.¹ Ethics Committee Regulations (specifically the rules concerning gifts to Senators) require that funds contributed to a Senator's Political Committee must be Contributions, as such terms are defined in the FEC Act. As you know, donations to a Political Committee for the purpose of financing an election challenge are specifically excepted from the definitions of Contributions. As a result, elected Senators, like Senator Landrieu, may not by virtue of the Ethics Committee use his or her authorized Political Committee to pay the costs of defending election challenges, although such is specifically allowed under the FEC Act and the Advisor Opinions issued by the FEC.

Had Senator Landrieu been allowed to finance her election challenge under the FEC Regulations without regard to the Ethics Committee, the issue we have been asked to discuss with you would not have been raised. If funds had been spent by the Landrieu Committee to pay election challenge expense such would have been disbursements but not Expenditures under the FEC Act, and the funds raised for the election challenge under the FEC Act would have been receipts but not Contributions. As such, the Contribution limits under the FEC Act would not have been implicated. Absent the Ethics Committee Regulations, a natural person who is a U.S. national would have been able to donate to the Landrieu Committee her full \$1,000.00 limit as a Contribution, and an unlimited amount to finance the defense of an election challenge, all without violation of the FEC Act.

¹ Note that under Ethics Committee Regulations, a Senator, with prior approval of the Senate Ethics Committee, may use "hard money" Contributions for certain non-campaign purposes that are related to his or her service as a Senator. Nevertheless, use of campaign funds raised as Contributions is discouraged by the Senate Ethics Committee because the trust fund vehicle, which has its own donation requirements, limits and Senate reporting regime, is available to Senators.

Lawrence M. Noble
Federal Election Commission
November 13, 1998
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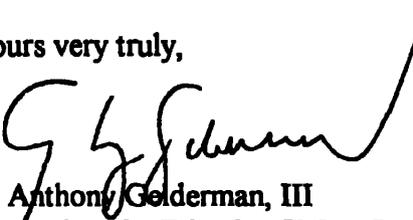
In an effort to bring the affairs of the Trust Fund closer to conclusion, the Trust Fund wishes to repay the Committee the full \$97,000.00 owed in a single payment. The Trust Fund intends to borrow the \$97,000.00 through a \$150,000.00 line of credit maintained personally by Senator Mary L. Landrieu secured by her personal assets. Senator Landrieu will effectively lend the funds to the Trust Funds for repayment to the Landrieu Committee.

Thereafter, the Trust Fund will raise funds to repay Senator Landrieu's loan pursuant to the Ethics Committee Regulations.

Prior to making the loan repayment described above, we were advised by the Office of Congressional Affairs to provide your office with the opportunity to review the transaction. According to your Congressional Affairs office, the circumstances described in this letter have not been considered by the FEC in the past.

If you require any information not provided above, please do not hesitate to contact me on behalf of the Landrieu Committee. We look forward to your reply.

Yours very truly,



G. Anthony Gelderman, III
Counsel to the Friends of Mary Landrieu, Inc.

GAG:jtb



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 23, 1998

**G. Anthony Gelderman, III
Tarcza & Gelderman, L.L.C.
1310 Whitney Building
228 St. Charles Avenue
New Orleans, LA 70130**

Dear Mr. Gelderman:

This refers to your letter dated November 13, 1998, on behalf of The Friends of Mary Landrieu, Inc. ("the Landrieu Committee"), concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the acceptance of a loan repayment.

To pay for the costs of legal expenses for defending against a challenge to the election of Senator Mary Landrieu, a fund, known presently as the Louisiana Contested Election Trust Fund ("the Trust Fund"), was established in March 1997. You state that, between March and June 1997, the Landrieu Committee loaned \$97,000 to the Trust Fund because, under Senate rules, the Landrieu Committee could not directly pay the costs of defending against an election challenge. You propose to have the Trust Fund repay this debt to the Landrieu Committee in a single payment. To do this, the Trust Fund will borrow the amount from a \$150,000 line of credit "maintained personally" by the Senator and secured by her personal assets. The Trust Fund will then raise funds to repay the Senator. You ask whether this proposal is permissible under the Act.

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). Commission regulations 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).

In view of the cited requirements, you will need to provide responses to the following requests for information:

(1) You state that, "[i]n an effort to bring the affairs of the Trust Fund closer to conclusion, the Trust Fund wishes to repay the [Landrieu] Committee the full \$97,000

owed in a single payment." Please explain the reasons for having the Trust Fund go through the process of borrowing funds from the line of credit, paying back the Landrieu Committee, and repaying the Senator with the proceeds of new donations, as opposed to the Trust Fund merely raising the new donations and paying back the Landrieu Committee with the proceeds of those donations.

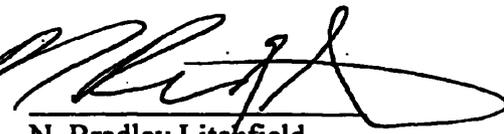
(2) A review of the reports filed with the Commission by the Landrieu Committee and the Trust Fund indicates slightly different information from the descriptions provided in your letter. The reports disclose that the Landrieu Committee loaned \$122,000 to the Trust Fund and that \$25,000 was repaid on July 27, 1997. Please clarify the discrepancies as to the amounts of the loans made by the Landrieu Committee to the Trust Fund and as to the loan repayments made by the Trust Fund.

(3) The Trust Fund's 1997 Year End report discloses that it opened a \$150,000 line of credit with the First National Bank of Commerce on December 16, 1997, and that it is secured by the Senator's general partnership interest in a limited partnership. Please state whether this is the line of credit that you state is "maintained personally" by the Senator. If not, please describe the line of credit, including its terms, that will be used for the repayment of the Landrieu Committee loans.

Upon receiving your responses to the above questions, this office and the Commission will give further consideration to your inquiry as an advisory opinion request. If you have any questions concerning the advisory opinion process or this letter, please contact Jonathan Levin, a senior attorney in this office, at 202-694-1650.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
N. Bradley Litchfield
Associate General Counsel

TARCZA & GELDERMAN, LLC.

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**ALSO ADMITTED IN VIRGINIA AND
THE DISTRICT OF COLUMBIA

December 9, 1998

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
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AOR 1998-26

VIA FACSIMILE
AND
U.S. POSTAL SERVICE

N. Bradley Litchfield, Esq.
Associate General Counsel
Federal Election Commission
Washington, D.C. 20464

Att: Jonathan Levin, Esq.
Senior Attorney

Re: Repayment of disbursements made by The Re-Elect Mary Landrieu for
Senate Committee, Inc. predecessor to The Friends of Mary Landrieu, Inc.

Dear Mr. Litchfield:

This letter is in response to your letter of November 23, 1998 in which you ask that I answer three questions regarding my letter of November 13, 1998 addressed to Lawrence Noble, General Counsel to the Federal Election Commission.

First, you inquire as to why the Louisiana Contested Election Trust Fund (the Trust Fund) wishes to "...go through the process of borrowing funds from the line of credit, paying back the Landrieu Committee, and repaying the Senator with the proceeds of new donations, as opposed to the Trust Fund merely raising the new donations and paying back the Landrieu Committee with the proceeds of those donations." The answer is The Friends of Mary Landrieu, Inc. (the Landrieu Committee) wishes to be made whole at this time, so that the Landrieu Committee's report filed with the FEC for the period ending December 31, 1998 will reflect the repaid cash on hand. The Landrieu Committee is the Senator's primary campaign committee, and the Committee wishes to have the cash available for its use, rather than have a loan receivable on the books at year-end 1998.

Second, you ask that I clarify whether the Landrieu Committee loaned \$122,000 to the Trust Fund or \$97,000 as noted in my letter of November 13. The correct total loan amount is \$122,000 with \$25,000 having been repaid on July 27, 1997.

Third, you ask that I state whether the bank line of credit described in the Trust Fund's 1997 Year End report is the same line of credit described in my November 13 letter as "maintained personally" by Senator Landrieu. Both descriptions refer to the same line of credit.

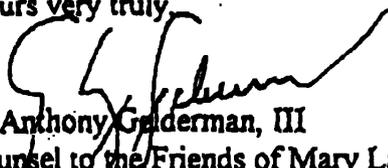
Jonathan Levin, Esq.
Federal Election Commission
December 9, 1998
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Additionally, in the second paragraph of your letter dated November 23, 1998 you said that in my previous letter to you, I stated that the Landrieu Committee, "under Senate Rules, could not directly pay the costs of defending against an election challenge." Technically, the Landrieu Committee could pay such costs with the prior approval of the Senate Ethics Committee. The Landrieu Committee however, could not receive cash donations under the FEC Regulations to finance such costs because according to the staff of the Senate Ethics Committee, such donations to the Landrieu Committee on behalf of Senator Landrieu would violate the Senate rule concerning gifts to Senators. Only "hard money" receipts defined as "Contributions" under FEC Regulations may be accepted by a Senator or her campaign committee.

Finally, I am advised that Senate Ethics Committee staff indicated to the attorney handling the establishment of the Trust Fund that they were not inclined to allow the use of hard campaign funds beyond the sum that was loaned by the Landrieu Committee to the Trust Fund (the repayment of which is the subject of our opinion request) to be used for the Senator's defense of an election challenge in the Senate, as the Senate Rules provide for the Trust Fund vehicle to raise and disburse such funds.

Please contact me if you require any further information.

Yours very truly,



G. Anthony Galdeman, III
Counsel to the Friends of Mary Landrieu, Inc.

GAG:jtb