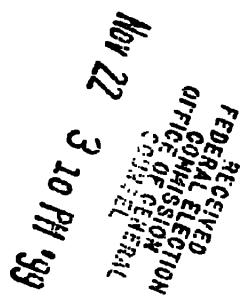


LAW OFFICES
NICHOLAS C. VASELS
1601 DOVE STREET
SUITE 200
NEWPORT BEACH, CALIFORNIA 92660
TELEPHONE: (949) 225-0038
FACSIMILE: (949) 225-0042

November 17, 1999

Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

AOR 1999-38



Re: Request for Advisory Opinion

Dear Sir or Madam:

This office represents the Ken Calvert For Congress election committee (ID No. C00257337) on whose behalf an advisory opinion is requested to resolve the following:

The Problem: The committee has, through several Form 3 reports filed in the past, reported four specific Schedule D debts which the committee contends it does not owe. On its last Report of Receipts and Disbursements filed for the period ending June 30, 1999, the committee charged off the subject amounts by simply eliminating the designated creditors from the Form 3 Schedule D; subsequently, following its review of the report, the FEC, by letter dated October 19, 1999 from reports analyst Lisa J. Simpson, indicated that the Schedule D eliminations created a discrepancy with the Form 3 Schedule B in that the Schedule B did not identify any corresponding payments to the creditors no longer appearing on the Schedule D. In response to Ms. Simpson's request that it "correct (sic) the...problem(s)", the committee filed an amended Schedule D reinstating the charged-off amounts. Copies of the June 30, 1999 Schedule D; Ms. Simpson's October 19, 1999 letter; and the November 2, 1999 by this office responding to Ms. Simpson and transmitting the committee's amended Schedule D are enclosed here for your review. Although it may be currently considered in compliance by balancing the 6/30/99 Form 3, the committee remains confronted with the continuing obligation to report the subject "debt" items when it has no obligation to pay those items at all. The committee seeks to remove the items from future reports without having to report the amounts as either paid by way of disbursements or contributions whether cash or in-kind.

The Schedule D Debt Items: The four debt items reinstated on the amended Schedule D are Fieldworks Development (\$3,000); Pacific West Communications (\$2,915.00); Gangi Graphics (\$2,085.99); and Calloway Vineyard & Winery (\$2,370.50). Of the four, Calloway Vineyard was previously resolved by individual in-kind contributions over which the committee will reconcile its

Federal Election Commission

November 17, 1999

page 2

records and deal with separately other than here; the other three items, which the committee does not owe, are the subject of this advisory opinion request, for the following reasons:

a) Fieldworks Development: Fieldworks Development, a fictitious business name for an individual named David Terrie, had been engaged to create certain computerized mailing lists during Mr. Calvert's 1994 primary election campaign. There were problems with the program Terrie created, and his subsequent invoice for \$3,000 for the work performed was disputed by the campaign committee which refused to pay the full amount and sought instead to settle the bill by compromise. During the ensuing negotiations, in which this office represented the committee, an employee of the campaign erroneously posted the face amount of the invoice as a payable which then was mistakenly reported as a debt for \$3,000 on the Form 3 Schedule D filed for the period ending 12/31/94. In early 1995, the committee through this office tendered a check to satisfy the invoice which Terrie refused to accept, and although Terrie demanded full payment of the bill, he never attempted collection by way of an action or otherwise. Neither this office nor the committee has heard from Terrie on this matter for several years, and the applicable statute of limitations under California law has long expired on the claim. No amount of the disputed invoice can be collected by Terrie, and the committee has no intention of volunteering any further tender in relation to this matter. The reported \$3,000 Schedule D item is discharged in substance and should be in form.

b) Pacific West Communications: This was a vendor that performed certain services connected with the production of a video used in Mr. Calvert's 1996 general election campaign. The \$2,915.00 indicated on the amended Schedule D were overcharges by Pacific West disputed by the committee because the services for which the amounts were billed were both unauthorized and were defectively performed by the vendor, causing extra cost to the campaign to correct. Pacific West neither contested the committee's contentions nor pressed any claim for the disputed amount, and the committee considered that it did not owe the money and that the matter was settled. Meanwhile, the disputed amount had been erroneously reported as a Schedule D debt on the Form 3 filed for the period ending 9/30/96, as an unpaid balance on the original Pacific West invoice, following the resolution of the claim itself, and such amount should not have been so reported. The item has been carried as a Schedule D debt since that time and should be eliminated from further reporting. As a further matter, the committee is informed that Pacific West Communications no longer exists as a business.

c) Gangi Graphics: This was also a vendor associated with Pacific West Communications above that performed certain services connected with production of the same video used in the 1996 general election campaign. The \$2,085.99 indicated on the amended Schedule D were also overcharges by the vendor which the committee disputed for the same reasons as it disputed those above-mentioned amounts charged by Pacific West, and Gangi Graphics dropped the claim. The disputed amount,

Federal Election Commission

November 17, 1999

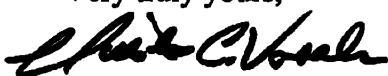
page 3

however, was also erroneously reported as a Schedule D debt on the Form 3 filed for the period ending 9/30/96 after that amount had been withdrawn by the vendor as a claim and therefore should not have been reported. The item has also been carried as a Schedule D debt since that time and should be eliminated from further reporting.

The Advisory Opinion Request: Given the facts and circumstances set forth above, charging-off the foregoing Schedule D items would not be actual discharges of debts; could not be considered corollary contributions or receipts or accurately reported as Schedule B disbursements; and would not be offsets or rebates. The committee is not nor has been obligated to pay the subject amounts reported; has not nor would not receive any benefits by charging off the items from its records; contends that the amounts were in the first instances reported in error; and sees no legitimate reason to continue reporting the amounts on any future Schedule D. The committee plans to eliminate the subject amounts and creditor designations from its next Form 3 report and seeks an advisory opinion at this time concerning the permissibility of such intended action or, alternatively, an advisory opinion as to how best to charge off the subject items and resolve the reporting issues.

We greatly appreciate your attention to the foregoing matters, and should you require additional information, or have any questions, please do not hesitate to contact the undersigned.

Very truly yours,



Nicholas C. Vasels

NCV:st
encls.

cc: Gary Rawlings, Ken Calvert for Congress

SCHEDULE D
Revised 3/80)

**DEBTS AND OBLIGATIONS
Excluding Loans**

Print or Type
Line Number(s)
(See separate schedule
for each numbered line)

Nature of Credit (Indicate):

KEN CALVERT FOR CONGRESS

A. Full Name, Mailing Address and ZIP Code of Debtor or Creditor

**FIELDWORKS DEVELOPMENT
28401 CHAMPIONSHIP DRIVE
MORENO VALLEY, CA 92555**

**Outstanding
Balanced Beginning
This Period**

**Amount
Incurred
This Period**

**Payment
This
Period**

**Outstanding
Balance at Close
of This Period**

3000.00

-0-

3000.00

-0-

Nature of Debt (Purpose):

COMPUTER TECH.

B. Full Name, Mailing Address and ZIP Code of Debtor or Creditor

**PACIFIC WEST COMMUNICATIONS
P.O. BOX 2965
LOS ANGELES, CA 90051-0965**

2915.00

-0-

2915.00

-0-

Nature of Debt (Purpose):

MAILER-VIDEO PRODUCTIONS

C. Full Name, Mailing Address and ZIP Code of Debtor or Creditor

**GANGI GRAPHICS
19770 BAHAMA STREET
NORTHRIDGE, CA 91324**

2085.00

-0-

2085.00

-0-

Nature of Debt (Purpose):

VIDEO PRODUCTION

D. Full Name, Mailing Address and ZIP Code of Debtor or Creditor

**CALLAWAY VINEYARD & WINERY
32720 RANCHO CALIFORNIA ROAD
TEMECULA, CA 92589-9014**

2370.50

-0-

2370.50

-0-

Nature of Debt (Purpose):

E. Full Name, Mailing Address and ZIP Code of Debtor or Creditor

Nature of Debt (Purpose):

F. Full Name, Mailing Address and ZIP Code of Debtor or Creditor

Nature of Debt (Purpose):

i) **TOTALS this Period this Page (optional)**

ii) **TOTALS this Period (last page in this line only)**

iii) **TOTAL OUTSTANDING LOANS from Schedule C (last page only)**

iv) **Sum of 2) and 3) and carry forward to appropriate line of Summary Page (last page only)**



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

*NICK Z.
GWR*

Varis C. Smith, Treasurer
Ken Calvert for Congress
P.O. Box 1414
Riverside, CA 92502

Identification Number: C00257337

OCT 19 1999

Reference: Mid-Year Report (1/1/99-6/30/99)

Dear Mr. Smith:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Debt payments for this period (Schedule D) are greater than the payments itemized on Schedule B. Each expenditure to a person which in the aggregate is greater than \$200 for the calendar year must be reported on Schedule B. "Person" includes an individual, partnership, corporation, association, and public or private organization -- other than an agency of the United States Government. Please correct the discrepancies in the payments made to Fieldworks Development, Pacific West Communications, Gangi Graphics, & Callaway Vineyard & Winery and file an amendment to your report. (11 CFR §§104.3(b)(4)(i)(A) and 100.10)

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 694-1130.

Sincerely,

A handwritten signature in cursive ink that appears to read "Lisa J. Simpson".

Lisa J. Simpson
Reports Analyst
Reports Analysis Division

LAW OFFICES
NICHOLAS C. VASELS
1601 DOVE STREET
SUITE 200
NEWPORT BEACH, CALIFORNIA 92660
TELEPHONE: (949) 225-0038
FACSIMILE: (949) 225-0042

November 2, 1999

Lisa J. Simpson
Reports Analyst
Reports Analysis Division
Federal Election Commission
Washington, D.C. 20463

Re: Identification No. C00257337
Mid-Year Report (1/1/99-6/30/99)

Dear Ms. Simpson:

Thank you for our telephone conversation on October 27, 1999. Your courtesy was greatly appreciated.

Please be confirmed that this office represents the Ken Calvert For Congress election committee, and this is in response to your October 19, 1999 letter to Varis C. Smith, a copy of which is enclosed for your convenient reference here.

First, as we discussed when we spoke, the committee recognizes the Schedule B/Schedule D payment discrepancy raised in your letter to Mr. Smith; however, the subject amounts concerning Fieldworks Development, Pacific West Communications, Gangi Graphics, and Callaway Vineyards were not paid in fact during this past reporting period but rather were charged off because the amounts are not owed. The committee contends that previous personnel responsible for preparation of prior FEC Form-3's erred in posting the ostensible debt obligations in the first place, which had been carried forward on subsequent Schedule D's until simply eliminated off the last report. But as we also discussed, the handling of the desired charge-offs may be appropriate for an AOR in this case, and pending an accounting resolution which should result from that process, the report is best balanced by reinstating the charge-offs in question. Accordingly, you will find enclosed an amended

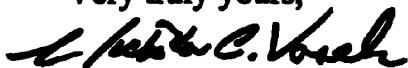
**Lisa J. Simpson
November 2, 1999
page two**

Schedule D for that purpose, for filing in compliance with your 10/19/99 request to Mr. Smith.

Meanwhile, we are presently preparing an AOR in connection with the foregoing, which we will submit in the few days; I will forward a copy to you for your file records.

Should you have any questions, comments or further requirements, please do not hesitate to let me know. I do wish to thank you again for your assistance in this matter.

Very truly yours,



Nicholas C. Vasels

NCV:st

encls.

cc: Gary L. Rawlings



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

*NICK Z.
GWR*

Varis C. Smith, Treasurer
Ken Calvert for Congress
P.O. Box 1414
Riverside, CA 92502

Identification Number: C00257337

OCT 19 1999

Reference: Mid-Year Report (1/1/99-6/30/99)

Dear Mr. Smith:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

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A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 694-1130.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa J. Simpson".

Lisa J. Simpson
Reports Analyst
Reports Analysis Division

**AMENDED
SCHEDULE D
(Revised 3/80)**

**DEBTS AND OBLIGATIONS
Excluding Loans**

Page 1 of 1 for
LINE NUMBER _____
(Use separate schedules
for each numbered line)

Name of Committee (in Full)	Outstanding Balance Beginning This Period	Amount Incurred This Period	Payment This Period	Outstanding Balance at Close of This Period
KEN CALVERT FOR CONGRESS				
A. Full Name, Mailing Address and Zip Code of Debtor or Creditor FIELDWORKS DEVELOPMENT 28401 CHAMPIONSHIP DRIVE MORENO VALLEY, CA 92555	3000.00	-0-	-0-	3000.00
Nature of Debt (Purpose): COMPUTER TECH.				
B. Full Name, Mailing Address and Zip Code of Debtor or Creditor PACIFIC WEST COMMUNICATIONS P.O. BOX 2965 LOS ANGELES, CA 90051-0965	2915.00	-0-	-0-	2915.00
Nature of Debt (Purpose): MAILER-VIDEO PRODUCTIONS				
C. Full Name, Mailing Address and Zip Code of Debtor or Creditor GANGI GRAPHICS 19770 BAHAMA STREET NORTHRIDGE, CA 91324	2085.00	-0-	-0-	2085.00
Nature of Debt (Purpose): VIDEO PRODUCTION				
D. Full Name, Mailing Address and Zip Code of Debtor or Creditor CALLAWAY VINEYARD & WINERY 32720 RANCHO CALIFORNIA ROAD TEMECULA, CA 92589-9014	2370.50	-0-	-0-	2370.50
Nature of Debt (Purpose): FUNDRAISER-DINNER				
E. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
F. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
1) SUBTOTALS This Period This Page (optional)	10370.50			
2) TOTALS This Period (last page this line only)				
3) TOTAL OUTSTANDING LOANS from Schedule C (last page only)				
4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only)				