

123 Webster Avenue
Providence, Rhode Island 02909

January 13, 2000

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
JAN 18 3 52 PM '00

Federal Elections Commission
ATTN: Bradley Litchfield
Associate General Counsel/Policy
999 E. Street, NW
Washington, DC 20463

AOR 2000-01

Re: Angel Taveras Request for Advisory Opinion

Mr. Litchfield:

In response to your e-mail of December 22, 1999, please note the following:

- 1) I confirm that my proposal means that I will be released from all duties and responsibilities with the firm and will not have any work assignments from the firm or any of its members during the period of my leave. I will not perform any work for the firm or its members that will result in billable hours to firm clients.
- 2) My compensation is on a salary basis with a bonus based on my work in the prior year. The bonus is based on my prior year's performance, based on my productivity (i.e. billable hours), quality of work, market rate, and overall contributions to the firm. I worked for the firm in the summer of 1995 as a summer associate. I have worked for the firm since September of 1996 through the present.
- 3) There is no written paid leave policy. I will submit a letter from a managing partner confirming the firm's paid leave policy. The firm's paid leave policy is as follows: an attorney submits a written proposal to the Firm's Policy Committee (the Management Committee). The Policy Committee makes a decision based on an attorney's time with the firm, reason for the leave, and benefit to the attorney's practice and firm overall. In the past, the firm has approved the same paid leave as it has for me for an attorney to train for and go to the Olympics in 1992 and for another attorney to run for the Boston City Council in 1997. In addition, in the past the firm has also allowed paid leaves to attorneys who have pursued further education and for attorneys facing a personal crisis.

The Chairman of the Firm is sending you a letter to confirm my response to number 3. If you have any further questions or need more specifics, please let me know. Thank you.

Sincerely,


Angel Taveras



"Taveras, Angel" <ataveras@brfg.com> on 01/13/2000 02:23:05 PM

To: Bradley Litchfield/FEC/US@FEC

cc:

Subject: RE: Letter (via FCM) to General Counsel FEC dated December 16, 19 99

Mr. Litchfield,

In response to your e-mail (a copy of which is located at the end of my response) please note the following.

1) I confirm that my proposal means that I will be released from all duties and responsibilities with the firm and will not have any work assignments from the firm or any of its members during the period of my leave. I will not perform any work for the firm or its members that will result in billable hours to firm clients.

2) My compensation is on a salary basis with a bonus based on my work in the prior year. The bonus is based on my prior year's performance, based on my productivity (i.e. billable hours), quality of work, market rate, and overall contributions to the firm.

I worked for the firm in the summer of 1995 as a summer associate. I have worked for the firm since September of 1996 through the present.

3) There is no written paid leave policy. I will submit a letter from a managing partner confirming the firm's paid leave policy. The firm's paid leave policy is as follows: an attorney submits a written proposal to the Firm's Policy Committee (the Management Committee). The Policy Committee makes a decision based on an attorney's time with the firm, reason for the leave, and benefit to the attorney's practice and firm overall. In the past, the firm has approved the same paid leave as it has for me for an attorney to train for and go to the Olympics in 1992 and for another attorney to run for the Boston City Council in 1997. In addition, in the past the firm has also allowed paid leaves to attorneys who have pursued further education and for attorneys facing a personal crisis.

The Chairman of the Firm is sending you a letter to confirm my response to number 3. If you have any further questions or need more specifics, please let me know. Thank you. -Angel Taveras

-----Original Message-----

From: Bradley Litchfield [mailto:blitchfield@fec.gov]

Sent: Wednesday, December 22, 1999 12:03 PM

To: ataveras@brfg.com

Subject: Letter (via FCM) to General Counsel FEC dated December 16, 1999

ATTENTION: Angel Taveras

I have today received the subject letter in which you request an advisory opinion from the Federal Election Commission on the issues raised by your taking a paid leave of absence from the law firm of Brown, Rudnick, Freed & Gesmer

in
order to pursue a campaign for Federal office in the 2000 election cycle.

The firm's website includes information about you indicating that you are an associate attorney with the firm. Your letter states that the paid leave from the firm would be 50% of your salary for the period between the start date of your leave through election day.

In order to get a complete description of the relevant facts, please provide further information in response to the questions that follow. See 11 CFR Part 112 (available from FEC website) that specifies the requirements of the advisory opinion process.

1) Confirm that your proposal means that you would be released from all duties and responsibilities with the firm and would have no work assignments from the firm or any of its members during the period of your leave. Your response should also indicate whether you will perform any work for the firm or its members that will result in billable hours to firm clients.

2) Confirm that your compensation from the firm is on a salary basis only. If not, explain all types and bases for your compensation since you joined the firm. Give the dates and time periods of your employment with the firm.

3) Provide formal documentation as to the firm's leave policy. This should include pertinent excerpts from any personnel handbook or manual used by the firm with respect to its employment policies for associates and other firm personnel. If there is not a firm personnel manual or handbook that covers its paid leave policy, a letter from a managing partner of the firm, describing the firm's leave policy and its application in past and current situations that are similar or comparable to yours, should be submitted to this office as part of your advisory opinion request.

When we receive your responses we will give further consideration to your letter as an advisory opinion request. The responses may be provided by email reply, but we will also need them in signed, paper letter form for the record.

Please call me or email if you have questions about the opinion process or the above questions. 202-694-1650

Bradley Litchfield
Associate General Counsel/Policy
Federal Election Commission

BR BROWN
FG RUDNICK
FREED &
GESMER

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL

RECEIVED
FEDERAL ELECTION
COMMISSION MAIL ROOM

ANDRÉ C. JASSE, CHAIRMAN

JAN 19 11 11 AM '00

2000 JAN 19 P 3:18

January 10, 2000

Federal Elections Commission
ATTN: Bradley Litchfield
Associate General Counsel/Policy
999 E. Street, NW
Washington, DC 20463

Mr. Litchfield:

As you know, Angel Taveras, a candidate for the United States House of Representatives in Rhode Island's Second Congressional District, has requested an FEC advisory opinion concerning a partially paid leave from our firm while he is a candidate. You have requested a letter from me explaining our firm's paid leave policy because we do not have a written paid leave policy.

The firm's paid leave policy is as follows: an attorney submits a written proposal to the Firm's Policy Committee (the Management Committee). The Policy Committee makes a decision based on an attorney's time with the firm, reason for the leave, and benefit to the attorney's practice and to the firm overall. In the past, the firm has approved the same paid leave as it has for Mr. Taveras for an attorney to train for and go to the Olympics in 1992 and for another attorney to run for the Boston City Council in 1997. In addition, in the past the firm has also allowed paid leaves to attorneys who have pursued further education and for attorneys facing a personal crisis.

This policy and process has been existence for some time and other attorneys have been granted partially paid leaves pursuant to the policy. If I can be of any further assistance, please feel free to contact me at 617-856-8200. Thank you for your attention to this matter.

Very truly yours,

BROWN RUDNICK FREED & GESMER, P.C.

By 

André C. Jasse

#50150852 v1 - taveraa - %wn8011.doc - 1/5493

A Partnership of
Professional Corporations

ONE FINANCIAL CENTER
BOSTON, MASSACHUSETTS 02111
617-856-8200
Fax: 617-856-8201

Hartford / Providence / London

123 Webster Avenue
Providence, Rhode Island 02909

December 16, 1999

DEC 20 12 16 PM '99

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL

Federal Elections Commission
ATTN: Lawrence Noble, General Counsel
999 E Street, NW
Washington, DC 20463

Dear Mr. Noble:

My name is Angel Taveras and I am a candidate for the United States House of Representatives in the 2nd Congressional District of Rhode Island. I am an attorney at the law firm of Brown, Rudnick, Freed & Gesmer ("Brown Rudnick") and am writing for an advisory opinion. I would like to confirm that it is acceptable to receive a partially paid leave of absence from Brown Rudnick considering the fact that Brown Rudnick, dating back over many years, has a pre-existing policy of permitting partially paid leaves of absence to attorneys who are engaged in civic activities.¹ For example, three years ago Brown Rudnick provided a partially paid leave of absence, under the exact same terms as will be provided to me, to an attorney who was a candidate for the Boston City Council. Similarly, Brown Rudnick has provided partially paid leaves of absence to attorneys who have pursued further education, trained for and participated in the Olympics, and also for attorneys who have had personal crisis. In short, Brown Rudnick's policy of providing partially paid leaves of absence is a longstanding one and was not designed to benefit me or my candidacy.

As I am sure that you are aware, a "contribution" is generally defined as anything of value given to influence a federal election. See 2 U.S.C. § 431(8)(A)(ii). I have read previous Advisory Opinions which suggest, but do not directly say, that a paid leave is acceptable as long as there is a pre-existing policy regarding paid leaves. See AO 1992-3 (stating that "[t]he Commission concluded [in Advisory Opinion 1976-70] that, absent a pre-existing policy regarding leave, the granting of a paid leave to a candidate would be a contribution to the candidate's campaign.") (emphasis added). The Commission added that the employer in AO 1992-3 had "a pre-existing policy covering fringe benefits and unpaid leave which is generally applicable to all employees. It is apparently not created for the benefit of a particular employee-candidate." Brown Rudnick's leave policy is a longstanding pre-existing policy applicable to all attorneys and was not created for the benefit of any candidate. As mentioned earlier, other attorneys have taken paid leaves while running for local office or while engaging in a broad range of civic activities.

¹ For your information, the partially paid leave would be 50% of my salary from the beginning of my leave through Election Day. I have not yet begun my leave of absence. I plan to begin my leave some time after the New Year.

Considering the fact that Brown Rudnick has a longstanding pre-existing policy regarding partially paid leaves of absence, please confirm that it is acceptable for me to receive compensation when I take my leave from the firm to campaign. Thank you for your attention to this matter.

Sincerely,


Angel Taveras