

**M^cGUINNESS & HOLCH
LAW OFFICES**

Niels C. Holch

Kevin S. McGuinness

March 30, 2000

APR 3 4 40 PM '00

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL COUNSEL

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

AOR 2000-05

Re: Request for an Advisory Opinion

Dear Mr. Litchfield:

On behalf of the Oneida Nation of New York ("the Nation") the purpose of this letter is to request an Advisory Opinion pursuant to 2 U.S.C § 437f(a) and 11 CFR 112.1.

The Nation is a federally recognized Indian tribe located in central New York State. The Nation is a non-corporate entity, which has been recognized by the United States on a government-to-government basis. *See* 65 FR 13298, 13300. The Nation has contributed to Federal candidates in the past and, pursuant to 2 U.S.C. § 441a(a)(1) and FEC Advisory Opinion 1978-51, has followed the \$1,000 contribution limitation placed on "person[s]." In the past, the Nation also has voluntarily abided by 2 U.S.C. § 441a(a)(3), which within a calendar year, places a \$25,000 contribution limitation on "individual[s]."

Because 2 U.S.C. § 441a(a)(3) only applies to individuals, the Nation is considering making contributions this calendar year that would exceed this limitation. However, before moving forward, the Nation hereby requests an Advisory Opinion to confirm the Nation's interpretation of the Federal Election Campaign Act of 1971 ("the Act"), as amended, that the limitation in § 441a(a)(3) does not apply to the Nation because the Nation is not an "individual."

The Act defines "person" as including, "an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but [not a] Federal Government [entity]." 2 U.S.C. § 431(11). While it is clear

Bradley Litchfield, Esq.
March 30, 2000
Page 2

under FEC precedent that the Nation is a "person" as defined under the Act, it is unclear whether the Nation is an "individual" for the purposes of 2 U.S.C. §441a(a)(3). The Nation hesitates to exceed this limitation without a clear indication from the Commission that it is not an "individual" under the Act. Consequently, the Nation requests that the Commission clarify this matter in an Advisory Opinion.

If you have any questions, or need further information, please do not hesitate to call. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Markham C. Erickson". The signature is fluid and cursive, with the first name being the most prominent.

Markham C. Erickson