

**DKT INTERNATIONAL**

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PHILIP D. HARVEY  
*President*

Tel. 202 785-0094  
Fax 202 223-5351

March 31, 2000

*AOR 2000-08*

Bradley Litchfield, Esq.  
Associate General Counsel  
Federal Election Commission  
999 E. Street, NW  
Washington, DC 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
APR 25 2 52 PM '00

RE: Identification of Candidates

Dear Mr. Litchfield:

I write to you to follow up on our telephone conversation of February 25<sup>th</sup> concerning a Request for an Advisory Opinion that I submitted to the Federal Election Commission on February 18, 2000.

In accordance with your direction, I have made contact with two candidates for federal office who would be willing to accept an anonymous gift, not to be used for campaign purposes, if the Federal Election Commission advises me that the gifts will not violate the campaign finance laws. The candidates with whom I have made contact are not now officials or employees of either state or federal government.

I look forward to receiving a response to my Request for an Advisory Opinion at your earliest convenience, and thank you for your attention to this matter.

Sincerely,



Philip D. Harvey

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1120 19TH STREET, N.W.  
SUITE 610  
WASHINGTON, DC 20036

PHILIP D. HARVEY  
President

Tel. 202 785-0094  
Fax 202 223-5351

February 18, 2000

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

Re: *Request for Advisory Opinion*

Dear Sir or Madam:

I am interested in making a gift to an individual who is also a candidate for federal office. The individual is neither a personal friend nor a relative, and I have never before given this individual a gift.

Under the tax code, I am able to make a non-taxable gift of \$10,000 to anyone. However, the advice I have received concerning the federal election law indicates that such a gift may invite an enforcement action from the Federal Election Commission ("FEC").

As a citizen of the United States, I am gratified by the fact the individual to whom I would like to make a personal gift is seeking federal office, and is willing to engage in a difficult and time-consuming campaign. I do not always agree with his positions, and do not wish to directly support his campaign.

I do not wish to make the gift to influence a federal election; I wish to make the gift to express my deep appreciation to this individual for foregoing opportunities in the private sector in order to serve his country. I am willing to put such restrictions as are necessary on the gift to preclude the donee from using any of the proceeds to defray campaign expenses. It is my intent that the gift be used solely for personal expenses. I would also be willing to make my gift anonymously, so as to preclude even the appearance that I was trying to curry favor with a candidate for federal office.

I understand that Federal election law defines a contribution as "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C.A. § 431(8)(A)(i). Furthermore, I understand that the FEC's regulations include under the definition of personal funds,

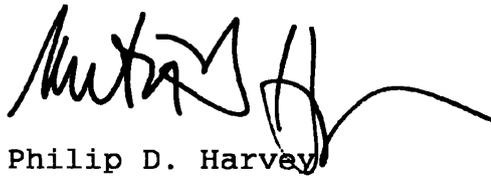
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OFFICE OF GENERAL COUNSEL  
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Page 2

"gifts of a personal nature which had been customarily received prior to candidacy." 11 C.F.R. 110.10(b)(2). I am not aware of any FEC regulation pertaining to gifts that have not been customarily received prior to candidacy, but I do not see how any such regulation (if one exists) could transform a gift that is not made for the purpose of influencing an election for Federal office into a "contribution" under the law.

Please advise me as to whether I may make a gift to a candidate for federal office without inviting an enforcement action. Please advise me whether or not I must place certain restrictions on the gift to preclude the candidate from using it to defray campaign expenses.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip D. Harvey", with a long, sweeping horizontal line extending to the right.

Philip D. Harvey