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March 29, 2004

VIA FAX (202) 208-3333
Ms. Mary Dove, Commission Secretary
Federal Election Commission
999 E Street NW
Washington, DC 20463

    RE: Draft Advisor Opinion 2004-08: American Sugar Cane League

Dear Ms. Dove:

    I make this response to the captioned as a friend of Mr. Charles Melancon.

    The request for advisory opinion by the American Sugar Cane League, Inc. (ASCL) failed to mention that several years prior to Charles Melancon even thinking about running for Congress, he had considered and discussed resigning his position with ASCL to pursue other opportunities. This was partially precipitated by a faction of the ASCL board that was not in full support of Mr. Melancon's policies and programs. At that time, it was discussed by members of the ASCL Board that if Mr. Melancon resigned, he *would be* granted a severance package at least equal to the severance package granted to Mr. Richard (full year's salary, one year of health benefits coverage, a company owned computer, the option of purchasing his company owned car for "Blue Book" value, and an ASCL paid for speaking engagement trip to Australia). Therefore, a severance package had been given serious consideration before that was "genuinely independent of the candidacy."

    The finding that ASCL's severance package is "too discretionary" to meet the standard of 11 CFR 113.1(g)(6)(iii)(A) and (B) is unrealistic. As you observe, ASCL is a Louisiana non-profit corporation currently employing five people. It's primary business purpose is promoting and protecting the U. S. sugar cane industry (growers and processors). Because of its daunting task, it devotes minimal time and expense to formulating complex human resource policies, programs and procedures that might be designed to address Federal Election Law issues in the event one of its employees might run for Congress. It remains flexible and devotes maximum time and expense to its primary purpose. Therefore, all employee policies, especially with respect to termination and severance benefits (if any) are and should remain discretionary in such a small organization.

    Furthermore, the requirement of 11 CFR 113.1(g)(6)(iii)(C) is discriminatory against a small organization such as ASCL because there never has been a "similarly qualified person for the same work over the same period of time." The regulation seems to provide that unless there is a history

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of granting severance packages to prior employees, then *any* severance package would be in violation
of the regulation.   Mr. Melancon's tenure and performance were unique and deserving of
compensation that could only result from his employment.   Even if ASCL had never granted a
severance package to any of its employees, that should not preclude ASCL from now granting one
to its terminated executive director.

The conclusion is that some years ago ASCL was ready and willing to grant Mr. Melancon
a severance package more generous than the one under current consideration.   This only serves to
confirm that the current severance package is "tied exclusively to services provided by him as a part
of his *bona fide* employment" and not for any other reason.

I respectfully submit that the judgment and discretion of the Board of Directors of ASCL
should be respected in this instance, and any severance package providing for one year's
compensation with related benefits should be allowable under applicable regulations.

Sincerely yours,

Jess J. Waguespack

JJW/mgs
cc: Office of General Counsel Via FAX (202) 219-3923
      Paul G. Barron III Via FAX (225) 687-9695
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