

Jon Ponder, Treasurer
Tancredo for Congress Committee Inc.
P. O. Box 3756
Littleton, CO 80121-3756

November 18, 2005

Lawrence H. Norton, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

AOR 2006-04

Re: Request for Advisory Opinion

Dear Mr. Norton:

Pursuant to 2 U. S. C. § 437f, I am seeking an advisory opinion on behalf of Tancredo for Congress Committee Inc. ("TFC"). TFC seeks affirmation that its planned contribution to Defend Colorado Now ("DCN") does not violate 2 U. S. C. § 441i(e)(1) or other provisions of the Federal Election Campaign Act ("ACT").

BACKGROUND:

DCN was established for the purpose of qualifying and passing a Colorado initiative that was to appear on the November 2004 ballot. As such, it registered as an issue committee with the Elections Division of the Colorado Secretary of State. During the pre-qualifying phase of the initiative process, DCN contacted Congressman Tancredo and requested organizational and financial assistance. Congressman Tancredo refused both requests. The former because of the Flake Opinion (AO 2003-12) and the latter, because at the time, the permitted use "for any other lawful purpose" had been removed from § 439a(a) and in oral discussions with the Commission no safe harbor guidance was available.

DCN now plans to qualify the original initiative for the November 2006 ballot. TFC believes that, in accordance with the Akin Opinion (AO 2004-29) and because §439a(a) was amended to include "for any other lawful purpose", it is lawful for TFC to make a contribution to DCN. This request for an advisory opinion seeks guidance as to whether the amount of the contribution both in nominal and percentage terms is not so large as to consider DCN being "financed" by Congressman Tancredo.

FACTS - ALTERNATIVE ONE:

1. TFC (C00334011) is the principle campaign committee of Congressman Thomas G. Tancredo (H8C006054).
2. Congressman Tancredo is closely identified with the issue of immigration reform.

Jon Ponder, Treasurer
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P. O. Box 3756
Littleton, CO 80161-3756

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November 18, 2005

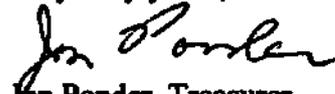
Lawrence H. Norton, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Dear Mr. Norton:

Please find enclosed a request for an advisory opinion. If you wish to contact me in regards to this matter you may do so at the following:

Phone: 303-796-7479
Cell: 303-915-3023
Email: SERVEVOLLI@AOL.COM

Very truly yours,



Jon Ponder, Treasurer
Tancredo for Congress Committee Inc.

3. DCN plans to qualify and advocate for the passage of a state ballot initiative that would restrict state services to illegal immigrants.
4. Congressman Tancredo did not establish and will not control DCN.
5. If qualified, the initiative would appear on the November 2006 ballot. Congressman Tancredo plans to seek reelection on the same ballot.
6. DCN will solicit funds in excess of amounts permitted and from sources prohibited by the Act ("soft-money"). DCN will spend funds to qualify the initiative including hiring signature vendors to obtain the requisite number of signatures. If qualified, it will also spend funds to advocate for the passage of the initiative. Said advocacy may include mail and/or media advertising that will reach voters in Congressman Tancredo's district.
7. Congressman Tancredo will independently endorse the initiative to Colorado voters.
8. TFC plans to contribute funds to DCN. The contribution or aggregate contributions from TFC would not exceed the smaller of \$50,000 or 50 percent of the total contributions received by DCN at the time of such contribution(s).

FACTS - ALTERNATIVE TWO:

1. The facts are identical to the facts presented in numbers 1 through 7, above.
2. TFC plans to contribute funds to DCN. The contribution or aggregate contributions from TFC would not exceed the smaller of \$50,000 or 25 percent of the total contributions received by DCN at the time of such contribution(s).

FACTS - ALTERNATIVE THREE:

1. The facts are identical to the facts presented in numbers 1 through 7, above.
2. TFC plans to pay an amount not to exceed \$50,000 directly to signature vendors for their services in providing signatures to qualify the initiative.

Respectfully submitted,



Jon Ponder, Treasurer

Tancredo for Congress Committee Inc.



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 30, 2005

Mr. Jon Ponder
Treasurer
Tancredo for Congress Committee, Inc.
P.O. Box 3756
Littleton, CO 80121-3756

Dear Mr. Ponder:

This refers to your letter received on November 21, 2005, concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to possible donations of funds from Tancredo for Congress Committee, Inc. ("TFC") to a state ballot initiative committee, Defend Colorado Now ("DCN").

Your letter explains that DCN plans to qualify and advocate for a Colorado ballot initiative restricting state services to illegal immigrants on the November 2006 ballot. Congressman Tancredo plans to seek reelection on the same ballot. You indicate that TFC (the principal campaign committee of Congressman Tancredo) would like to donate funds to DCN to support its efforts. You also suggest that Congressman Tancredo would like to endorse publicly the initiative to Colorado voters. You ask whether, under a series of alternative facts presented, TFC's donation to DCN would constitute "financing" by Congressman Tancredo. If so, the Commission would consider DCN a committee "established, financed, maintained or controlled" by Congressman Tancredo under the Act and Commission regulations.

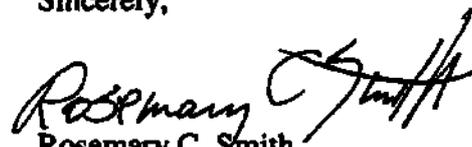
As you may know, the Act does authorize the Commission to issue an advisory opinion in response to a "complete written request" from any person with respect to a specific transaction or activity by the requesting person. 2 U.S.C. 437f(a). The request must concern a specific transaction or activity that "the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests presenting a general question of interpretation, or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as advisory opinion requests." 11 CFR 112.1(b). The regulations also explain that an advisory opinion request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c).

In view of these requirements, this Office seeks responses to the following questions:

- 1) Alternative One in your request states that donations from TFC would not exceed the smaller of \$50,000 or 50% of the total donations received by DCN (Alternative Two limits the donation to 25%). Public records indicate that DCN has raised approximately \$1885 in donations so far in the 2006 election cycle. Do you know of any other donations, pledges or commitments for other donations to DCN?
- 2) Your request states that Congressman Tancredo plans to "independently endorse the initiative to Colorado voters." Please provide additional information regarding the plan to endorse the initiative. Specifically:
 - a. Does Congressman Tancredo plan to appear in newspaper, radio or television advertisements to publicize this endorsement?
 - b. Would such communications be distributed in Congressman Tancredo's district?
 - c. Would DCN, or any other entity, pay for such communications, or would TFC finance the communications?
 - d. What contacts, if any, will Congressman Tancredo or TFC have with DCN in producing and disseminating the endorsement message?
- 3) Does Congressman Tancredo plan to solicit donations to DCN, together with, or apart from, his endorsement of the initiative? If so, then:
 - a. Is DCN a not-for-profit organization under section 501(c) of the Internal Revenue Code?
 - b. Would Congressman Tancredo be soliciting donations before or after the initiative is qualified for the November 2006 ballot (or both)?
- 4) Do you know if DCN plans to be involved in any State races for legislative office on the 2006 ballot, including but not limited to, publicly urging support for, or opposition to, particular State candidates?

Upon receiving your responses to the above questions, this Office and the Commission will give further consideration to your inquiry as an advisory opinion request. If you have any questions about the advisory opinion process or this letter, please contact Margaret Perl, an attorney in this Office, at 202-694-1650.

Sincerely,


Rosemary C. Smith
Associate General Counsel

Jon Ponder, Treasurer
Tancredo for Congress Committee Inc.
P. O. Box 3756
Littleton, CO 80121-3756

January 29, 2006

Rosemary C. Smith, Esq.
Associate General Counsel
Federal Election Commission
999 E Street N. W.
Washington, DC 20463

Re: Request for Advisory Opinion

Dear Ms. Smith:

The following are the answers to the questions you submitted in your letter of November 30, 2005.

1. Alternative One in your request states that donations from TFC would not exceed the smaller of \$50,000 or 50% of the total donations received by DCN (Alternative Two limits the donation to 25%). Public records indicate that DCN has raised approximately \$1885 in donations so far in the 2006 election cycle. Do you know of any other donations, pledges or commitments for other donations to DCN?

Yes, donations received in the 4th quarter of 2005 totaled \$7,400.40 (Attachment 1). In addition, DCN has pledges for future donations of \$37,500 from U. S., Inc., 445 East Mitchell Street, Petoskey, MI 49770 and \$8,000 from Richard Lamm, P. O. Box 280289.

2. Your request states that Congressman Tancredo plans to "independently endorse the initiative to Colorado voters." Please provide additional information regarding the plan to endorse the initiative. Specifically:

- a. Does Congressman Tancredo plan to appear in newspaper, radio or television advertisements to publicize this endorsement?

Yes.

- b. Would such communications be distributed in Congressman Tancredo's District?

Yes.

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COUNSEL

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- c. Would DCN, or any other entity, pay for such communications, or would TFC finance the communications?

TFC will be the only entity paying for such communications.

- d. What contacts, if any, will Congressman Tancredo or TFC have with DCN in producing and disseminating the endorsement message?

Congressman Tancredo and TFC will have access to the polling data and campaign strategy of DCN but Congressman Tancredo will independently decide on the content of his endorsement message.

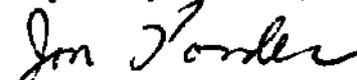
3. Does Congressman Tancredo plan to solicit donations to DCN, together with, or apart from, his endorsement of the initiative? If so, then:

Congressman Tancredo does not plan to solicit donations to DCN.

4. Do you know if DCN plans to be involved in any State races for legislative office on the 2006 ballot, including but not limited to, publicly urging support for, or opposition to, particular State candidates?

No, DCN is bi-partisan. It is founded and supported by both Democrats and Republicans.

Respectfully submitted,


Jon Ponder, Treasurer

"Attachment 1"

JAN-12-06 10:09

FROM: Donna Jackson, Suhra Lilly LLC

+3038378921

T-101 P.002/008 F-002

RECEIVED

Planning Division
1700 Broadway, Ste. 270
Denver, CO 80202
Tel: (303) 866-2300
Fax: (303) 866-4861
www.sos.state.co.us

JAN 12 2006



ELECTIONS / LICENSING
SECRETARY OF STATE

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REPORT OF CONTRIBUTIONS AND EXPENDITURES

(C.R.S. 1-6-106)

Full Name of Committee/Person	Defend Colorado Now <i>As Shown on Registration</i>
Address of Committee/Person:	PO Box 280288
City, State, Zip Code:	Lakewood, CO 80226
Committee Type:	Issue Committee
Name and Address of Financial Institution	US Bank 12340 W Alameda Pkwy, Lakewood, CO 80226

SOS ID NUMBER (state committees ONLY): 20048937021

Type of Report

- Regularly Scheduled Filing.
- Amended Filing. This amends previous report filed on (date)
Submit changes or new information ONLY
- Termination Report. (Termination Reports MUST have a Monetary Balance of Zero in Line 5)

Reporting Period Covered: 10/1/2005 Through 12/31/2005

Declared Total Spending (if applicable) \$3,183.78

[Art. XXVIII, Sec 4(1)]

1	Funds on Hand at the Beginning of Reporting Period (monetary only)	\$1,001.91
2	Total Monetary Contributions (line 11)	\$7,408.40
3	Total Monetary Contributions Beginning Amount (line 1 + line 2)	\$8,410.31
4	Total Monetary Expenditures (line 19)	\$5,226.58
5	Funds on Hand at the End of Reporting Period (monetary) (line 3 - line 4)	\$3,183.73

The appropriate officer shall impose a penalty of \$50 per day of each day that a report is filed late.
[Art. XXVIII Sec. 10(2)(a)]

Authorization (Must be completed by either the Registered Agent OR the Candidate)

Printed Registered Agent's (Treasurer's) Name: Fred Elbel

Registered Agent's (Treasurer's) Signature: Fred Elbel Date: 1/12/06

Print Candidate Name:

Candidate Signature: _____ Date: _____

DETAILED SUMMARY

Full Name of Committee/Person **Defend Colorado Now**

Current Reporting Period:

10/1/2006

Through

12/31/2006

	Funds on Hand at the Beginning of Reporting Period (Monetary Only)	\$1,601.91
6	Itemized Contributions \$20 or More [C.R.S. 1-45-106(1)(a)] (Please list on Schedule "A")	\$7,400.00
7	Total of Non-Itemized Contributions (Contributions of \$19.99 and less)	\$0.00
8	Loans Received (Please List on Schedule "C")	\$0.00
9	Total of Other Receipts (Interest, Dividends, etc.)	\$0.40
10	Returned Expenditures (from recipients) (Please list on Schedule "D")	\$0.00
11	Total Monetary Contributions (Total of lines 6 through 10)	\$7,400.40
12	Total Non-Monetary Contributions (From Statement of Non-Monetary Contributions)	\$0.00
13	Total Contributions (Line 11 + line 12)	\$7,400.40
14	Itemized Expenditures \$20 or more [C.R.S. 1-45-106(1)(b)] (Please list on Schedule "B")	\$1,783.78
15	Total of Non-Itemized Expenditures (Expenditures of \$19.99 or less)	\$0.00
16	Loan Repayments Made (Please List on Schedule "C")	\$0.00
17	Returned Contributions (To donor) (Please List on Schedule "D")	\$1,400.00
18	Total Coordinated Non-Monetary Expenditures (Candidates/Candidate Committee Political Parties only)	\$0.00
19	Total Monetary Expenditures (Total of lines 14 through 17)	\$3,183.78
20	Total Spending (Line 18 + line 19)	\$3,183.78

Schedule A - Itemized Contributions Statement (\$20 or more)
(CRS 1-45-106 (7)(a))

Full Name of Committee/Person: Defend Colorado Now

WARNING: Please read the instruction page for Schedule "A" before completing

PLEASE PRINT/TYPE

1. Date Accepted 12/6/2005	4. Name (Last, First): Harkins, Clyde J
2. Contribution Amt \$100.00	5. Address: 10810 W 80th Ave.
3. Aggregate Amt.* \$100.00	6. City/State/Zip: Arvada, CO 80004
	7. Occupation (if applicable, mandatory): Consultant
	8. Employer (if applicable, mandatory): Self Employed
1. Date Accepted 12/6/2005	4. Name (Last, First): Auburn, Linda C
2. Contribution Amt \$200.00	5. Address: 8762 W Ken Caryl Dr.
3. Aggregate Amt.* \$200.00	6. City/State/Zip: Littleton, CO 80127
	7. Occupation (if applicable, mandatory): Consultant
	8. Employer (if applicable, mandatory): Self Employed
1. Date Accepted 12/19/2005	4. Name (Last, First): U.S., Inc.
2. Contribution Amt \$5,000.00	5. Address: 446 E Michell St.
3. Aggregate Amt.* \$5,000.00	6. City/State/Zip: Petoskey, MI 49770
	7. Occupation (if applicable, mandatory):
	8. Employer (if applicable, mandatory):
1. Date Accepted 12/27/2005	4. Name (Last, First): Koeppe, Richard P
2. Contribution Amt \$100.00	5. Address: 8879 E Canyon Ave.
3. Aggregate Amt.* \$100.00	6. City/State/Zip: Denver, CO 80237
	7. Occupation (if applicable, mandatory): Consultant
	8. Employer (if applicable, mandatory): Self Employed
1. Date Accepted 12/28/2005	4. Name (Last, First): Lemna, Richard D
2. Contribution Amt \$2,000.00	5. Address: PO Box 280289
3. Aggregate Amt.* \$2,000.00	6. City/State/Zip: Lakewood, CO 80228
	7. Occupation (if applicable, mandatory): Retired
	8. Employer (if applicable, mandatory): Retired



Margaret Perl/FEC/US
02/06/2006 02:01 PM

To: servevelli@aol.com
cc:
bcc: Merita Johnson/FEC/US
Subject: Advisory Opinion Request

Mr. Ponder -

This is to confirm our phone conversation today regarding your advisory opinion request on behalf of Tancredo for Congress Committee, Inc. ("TFC").

First, you confirmed that Congressman Tancredo has no involvement with U.S. Inc. (a large donor to Defend Colorado Now ("DCN") identified in your Jan. 29, 2006 letter) and has not donated any money to U.S. Inc.

We also discussed the statement in your Jan. 29, 2006 letter that "Congressman Tancredo and TFC will have access to the polling data and campaign strategy of DCN..." You stated although there is not any particular agreement with regard to polling data currently between TFC and DCN, you anticipate that DCN will be conducting research in the course of its ballot initiative campaign. You assume that any polling conducted by DCN will be specifically directed to issues raised by the initiative and will not mention any State or Federal candidates for office. You anticipate that any such polling done by DCN will be given to TFC. You state that although information regarding how people think about immigration issues is generally helpful to the Congressman's campaign, the polling data will be used by TFC in order to craft the Congressman's messages endorsing the ballot initiative. You do not know whether such polling will become public knowledge before or after TFC receives the data, nor do you know exactly how TFC will be made aware of such polling data.

Thank you for responding to our inquiries. Please let me know if this email has not accurately confirmed the discussion we had today regarding this advisory opinion request.

Margaret Perl
Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington D.C. 20463
(202) 694-1650 [phone]
(202) 219-3923 [fax]