



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: THE COMMISSION
STAFF DIRECTOR
GENERAL COUNSEL
FEC PRESS OFFICE
FEC PUBLIC DISCLOSURE

FROM: COMMISSION SECRETARY *MWS*

DATE: August 25, 2006

SUBJECT: COMMENT: DRAFT AO 2006-21
Cantwell 2006

Transmitted herewith is a timely submitted comment from Richard Shepard, on behalf of the Northwest Legal Foundation, regarding the above-captioned matter.

The proposed draft advisory opinion is on the agenda for Tuesday, August 29, 2006.

Attachment



Northwest Legal Foundation

Richard Shepard, J. D., Attorney at Law

August 24, 2006

VIA FACSIMILE ONLY TO 202-208-3333 & 202-219-3923

Commission Secretary
Federal Election Commission
999 E. Street NW
Washington DC 20463

Re: Advisory Opinion – 2006-21 – Millionaire's Amendment

Dear Secretary:

I am Executive Director of the Northwest Legal Foundation, which is a non-profit public interest law firm that focuses on matters of individual rights and on fair election practices. I have reviewed the draft advisory opinion 2006-21 as published by the FEC on August 22, 2006, and wish to comment.

I believe Question #2 and the answer to Question #2 focuses on the wrong calculation. One who accepts a loan has the benefit of that loan until the loan is repaid (or perhaps later, if forgiven), not merely when the funds so obtained have been spent. Footnote 4 to the AO suggests that a loan of personal funds to a campaign is "an expenditure of personal funds" regardless what the campaign does with it. It seems obvious, if the loan is not repaid in the primary cycle the same benefit that inured to the campaign in the primary cycle also applies in general election cycle.

Until Mr. McGavick (or any other candidate who loans money to her campaign in the primary cycle) is repaid by the campaign that campaign continues to enjoy the benefit of the loaned money, whether or not the campaign actually spends it, and even more particularly if the candidate later forgives the loan. Accordingly, it is my contention that the proper test to apply under the Millionaire's Amendment after the primary election is how much, if any, of the candidate's pre-primary personal loan has been repaid.

Thank you for your time and consideration.

Sincerely,
NORTHWEST LEGAL FOUNDATION


RICHARD SHEPARD