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August 20, 2007

Ms. Thomasenia Duncan
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

AOR 2007-18

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2007 AUG 21 P 3: 58

Re: Advisory Opinion Request

Dear Ms. Duncan:

This firm represents Rangel for Congress and the National Leadership PAC, respectively the principal campaign committee and the leadership committee of Representative Charles Rangel. This letter requests an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended (the "Act") to the use of principal campaign committee funds or, alternatively, funds of the leadership committee to pay for commissioning an official portrait of Representative Rangel. The portrait will hang in the U.S. House of Representatives Ways and Means Committee Grand Hearing Room.

Representative Rangel is Chairman of the House Committee on Ways and Means. It has been a tradition of the U.S. House of Representatives to honor committee chairmen by commissioning their portraits to hang in their committee hearing rooms. The portrait will be paid with excess campaign funds of the principal campaign committee or funds of the leadership committee. The portrait would be donated to the U.S. House of Representatives. Such donations are permissible under the rules of the U.S. House of Representatives.

The cost of commissioning the portrait of Representative Rangel is estimated by the artist to be \$64,500, including the cost of a custom frame. That amount is commensurate with the usual and normal charge for works by artists of similar renown. Portrait artists determine fees based largely upon reputation, but the size of the subject and detail required also factor heavily in the pricing. An art broker for eight museum-quality portrait artists was consulted and advised that the estimated cost for the portrait is consistent with other top portrait artists. The prices listed on the broker's web site have a base range from \$30,000 to \$50,000, with added costs for greater detail. The prices do not include the cost of framing. The estimated cost of \$64,500 for Representative Rangel's portrait reflects a three-quarter body length size, important details and a custom frame. The artist receiving the commission payment is not a member of Representative Rangel's family.

The firm sought and received informal advice via telephone from staff counsel to the House Committee on Standards of Official Conduct ("Ethics Committee") regarding the applicability of House ethics rules to the propose transaction. The Ethics Committee views the use of a Member's principal campaign and/or leadership committee funds as preferable to other, less transparent methods of funding such a portrait. The use of regulated funds that are fully disclosed to the Federal Election Commission minimizes the appearance of undue influence or impropriety with regard to the portrait's commissioning, and lessens the concern that lobbyists or others seeking influence may make unregulated contributions that may benefit a Member of Congress.

This request is similar to Advisory Opinion 1995-18. In that advisory opinion, the Commission concluded that it was permissible for Members of Congress to use excess campaign funds to pay to commission an official portrait because:

1. the portrait was donated to the U.S. House of Representatives, which is an organization described in §170(c) of Title 26;
2. the portrait was donated for exclusively public purposes; and
3. the portrait will remain the official property of the U.S. House of Representatives in perpetuity, and will not be transferred or sold to any other person or organization.

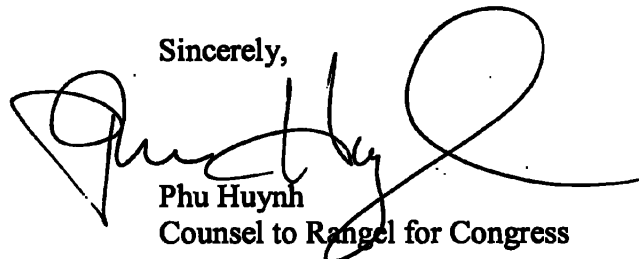
The cited advisory opinion is relevant and may be relied upon as provided by the Act and Commission regulations with respect to the use of principal campaign committee funds. Under the Act and Commission regulations,

[A]n advisory opinion rendered by the Commission . . . may be relied upon by (1) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered, and (2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered. 2 U.S.C. §437f(c), 11 C.F.R. §112.6

There are two differences between the facts presented in this request and those in Advisory Opinion 1995-18. First, in AO 1995-18, Members of Congress were donating their excess campaign funds to pay for commissioning a former chairman's portrait. Second, AO 1995-18 did not address the use of leadership committee funds to pay for a chairman's portrait. In this request, Chairman Rangel will not seek donations from other Members of Congress. His portrait would be paid for with excess campaign funds of his principal campaign committee or with funds of his leadership committee.

Please feel free to contact me if you need further information or have any questions regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Phu Huynh", with a large, stylized flourish extending to the right.

Phu Huynh
Counsel to Rangel for Congress