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FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 10, 2022

ADVISORY OPINION 2022-01

Joan E. Farr
Joan Farr for U.S. Senate OK
P.O. Box 140284
Broken Arrow, OK 74014

Joan Farr for U.S. Senate KS
P.O. Box 14
Derby, KS 67037

Dear Ms. Farr:

We are responding to your advisory opinion request on behalf of yourself and your principal campaign committees, Joan Farr for U.S. Senate OK and Joan Farr for U.S. Senate KS (“the Committees”),¹ concerning whether the Federal Election Campaign Act, 52 U.S.C. §§ 30101-45 (the “Act”), and Commission regulations allow you or the Committees to provide copies of a book you have written and currently own as rewards to persons who make contributions to the Committees. The Commission concludes that the proposed activity is permissible because you may make unlimited expenditures from your personal funds, including making in-kind contributions of your assets to the Committees.

Background

The facts presented in this advisory opinion are based on your letter received via email on January 3, 2022, your email received on January 12, 2022, and on public disclosure reports filed with the Commission.

You are a candidate for the United States Senate from Oklahoma and from Kansas in the 2022 primary elections in those states. Advisory Opinion Request at AOR001. Joan Farr for U.S. Senate OK is your principal campaign committee for the Oklahoma primary election, and Joan Farr for U.S. Senate KS is your principal campaign

¹ Joan Farr for U.S. Senate OK, Statement of Organization, FEC Form 1 (Aug. 27, 2021), <https://docquery.fec.gov/cgi-bin/forms/C00788034/1536435/>; Joan Farr for U.S. Senate KS, Statement of Organization, FEC Form 1 (Aug. 27, 2021), <https://docquery.fec.gov/cgi-bin/forms/C00788026/1536432/>.

committee for the Kansas primary election. *Id.* You are the author of a book entitled “TEN SECRETS You Must Know Before Hiring a Lawyer,” published in 2003 by the Association for Honest Attorneys (“the Association”), a nonprofit corporation that you created that same year. *Id.* The Association was dissolved in April 2019 and you assumed ownership of its assets, including the remaining copies of your book.² *Id.*

You propose to give away copies of the book to contributors who make contributions over a certain amount to the Committees. *Id.* You will not sell or donate the books to the Committees, *id.* at AOR002-03, and you will not receive any proceeds or royalties from the distribution of the books. *Id.* at AOR001.

Question Presented

*May you or the Committees distribute copies of your book to contributors as rewards for their contributions?*³

Legal Analysis

Yes, you and the Committees may distribute copies of your book to contributors as rewards for their contributions as proposed in the request because you may make unlimited expenditures from your personal funds, including making in-kind contributions of your assets to the Committees.

A contribution includes “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.” 52 U.S.C. § 30101(8)(A)(i); *see also* 11 C.F.R. § 100.52(a). Similarly, an expenditure includes “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(9)(A)(i); *see also* 11 C.F.R. § 100.111(a). In both definitions, “anything of value” includes all in-kind contributions, such as providing goods or services without charge or at less than the usual and normal charge. 11 C.F.R. §§ 100.52(d)(1) (definition of contribution), 100.111(e)(1) (definition of expenditure).

The Act prohibits individuals from making contributions, including in-kind contributions, “to any candidate and his authorized political committees with respect to

² In 2014, during your previous candidacy for the U.S. Senate, you submitted an advisory opinion request to the Commission regarding these same books. *See* Advisory Opinion 2014-10 (Farr). In that request, you asked whether your then-principal campaign committee could purchase the remaining copies of the book from the Association at a discounted price to be given as rewards to contributors. The Commission approved your request. However, as you have explained in the instant request, your 2014 campaign committee never purchased the books. AOR001.

³ The Commission is limiting its analysis and conclusion to the specific question presented.

any election for Federal office which, in the aggregate, exceed \$2,000.”⁴ 52 U.S.C. § 30116(a)(1)(A); *see also* 11 C.F.R. § 110.1(b). However, Commission regulations permit candidates for federal office to make unlimited expenditures from their personal funds. 11 C.F.R. § 110.10. Personal funds include “[a]mounts derived from any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had” either legal and rightful title or an equitable interest. 11 C.F.R. § 100.33(a).

Your proposal to distribute your books to your contributors would constitute an expenditure under the Act because the books would be distributed for the purpose of influencing your election to federal office. *See* Advisory Opinion 2001-08 (Specter) at 3 (distribution of candidate’s book to contributors “may be viewed as an expression of thanks for support of your past campaigns and an incentive to provide support to your next Senate campaign” and therefore would be for the purpose of influencing a federal election); Advisory Opinion 2011-02 (Brown) at 5 (distribution of candidate’s book to contributors and supporters would be for the purpose of influencing the candidate’s election).

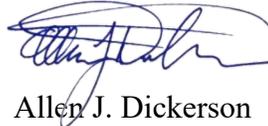
Your expenditure would relieve the Committees of the expense that they would otherwise incur to obtain the books, thus the provision of the books without charge on behalf of the Committees would constitute an in-kind contribution to the Committees. *See* Advisory Opinion 2015-07 (Hillary for America) at 2-3; Advisory Opinion 2007-22 (Hurysz) at 6. However, the Commission concluded previously that, under 11 C.F.R. § 110.10, no contribution limits would apply to a candidate’s proposal to sell his self-published book to his campaign committee at a discount, which the campaign committee in turn intended to sell for fundraising purposes. Advisory Opinion 1995-24 (Palmer). The Commission explained that “[s]ince the items the Committee will use for fundraising purposes are owned by [the candidate] . . . , [the candidate] may donate them to the Committee without being subject to the limits on contributions at [52 U.S.C. § 30116].” Advisory Opinion 1995-24 (Palmer) at 2; *see also* 11 C.F.R. § 100.111(e)(1) (stating that an in-kind contribution, such as providing goods or services without charge or at less than the usual and normal charge, is an expenditure). Similarly, here, the Committees will receive a benefit from your distribution of the books without charge on behalf of the Committees. However, because you may make unlimited expenditures from your personal funds, including making in-kind contributions of your assets to the Committees, you may give your copies of your book to the Committees or distribute them to contributors directly without regard to the contribution limits at 52 U.S.C. § 30116. 11 C.F.R. § 110.10. Accordingly, the proposal to distribute the books to contributors as described in the request is permissible.

⁴ This amount is adjusted every two years for inflation. *See* 52 U.S.C. § 30116(c); 11 C.F.R. § 110.1(b)(1)(i). The current limitation for contributions from an individual to a candidate and the candidate’s authorized committee is \$2,900 per election. *See* <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits/> (last accessed Jan. 14, 2022).

The Committees must report the value of any of your books given to the Committees or distributed by you directly to contributors, as in-kind contributions from you to the Committees and as an expenditure by the Committees. 11 C.F.R. § 104.13(a); *see also* Advisory Opinion 1990-09 (Mueller) at 3.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 52 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestors may not rely on that conclusion as support for its proposed activity. 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 this advisory opinion is rendered may rely on this advisory opinion. *See* 52 U.S.C. § 30108(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be affected by subsequent developments in the law including, but not limited to, statutes, regulations, advisory opinions, and case law. Any advisory opinions cited herein are available on the Commission's website.

On behalf of the Commission,

A handwritten signature in blue ink, appearing to read "Allen J. Dickerson", is written over a faint, circular stamp or watermark.

Allen J. Dickerson
Chairman