October 26, 1993

ADVISORY OPINION 93-1

By written correspondence, the inquisitor asks the Ethics Commission to provide an advisory opinion on certain Elections and Ethics Code issues. More specifically, the inquisitor requests clarification and advice concerning a campaign contribution and a campaign expenditure. On Thursday, October 21, 1993, the Ethics Commission met to discuss and to deliberate on the inquiry. The Commission finalized its decision on October 26, 1993. We advise the inquisitor as follows.

I. The inquisitor asks whether a $250.00 contribution from a "non-profit organization" on April 28, 1993 is permissible under the Election or Ethics Code. In view of the date on which the contribution was received, the Commission is of the opinion that the contribution is lawful and proper.

The Commission must determine the propriety of the contribution first by looking at the date on which it was made and second by examining and applying the Code and Charter provisions which existed at the time of the contribution. In April, 1993, when the contribution was made, the City Charter, Article VII, Section 21 (6) applied. It read as follows:

> Campaign contributions directly or indirectly for elective office shall be limited to two hundred fifty dollars ($250.00) per donor, with the exception of the candidate and the candidate's spouse.

The Commission finds no limiting language in the above provision or any other provision to prohibit a business from being a "donor". Furthermore, the Commission cannot find in the current Elections Chapter any provision which contains a retroactive prohibition against contributions from a business entity. Therefore, we are of the opinion that the contribution was proper when it was received in April, 1993.

By way of future reference, it should be noted that any contribution from a business entity received by a candidate after August 25, 1993 is prohibited.

The inquisitor also asks how the April contribution

should be noted on a financial statement. By properly dating the contribution, as required by Section 34-15 of the Elections Chapter, the inquisitor will adequately apprise the Commission and Election Supervisors. However, the inquisitor can make whatever notations he/she deems appropriate.

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II. The inquisitor also asks the Ethics Commission for its opinion on how to report certain campaign contributions. The inquiry involves certain printed posters which will be shared jointly with another candidate. The inquisitor asks the Commission for advice on the correct method of paying for such material, whether the cost should be divided evenly, and how it should be reported. In light of the prohibition set forth in Section 34-14 F, the Commission opines that the expense should be evenly divided and reported accordingly, as a joint expenditure. To do otherwise, (e.g. to pay more or less than 1/2 share) would create an in-kind transfer or payment to another candidate which, in our reading, is disallowed by Section 34-14 F.

We appreciate the chance to respond to your inquiry.

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