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By Office of the Commission Secretary at 6:46 pm, Jul 22, 2014



FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA DOCUMENT NO. 14-36-A
AGENDA ITEM
For meeting of July 23, 2014
SUBMITTED LATE

July 22, 2014

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS*
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Subject: AO 2014-06 (Ryan, Ryan for Congress, and Prosperity Action)
Draft C

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 9:00 am (Eastern Time) on July 23, 2014.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <http://www.fec.gov/law/draftaos.shtml>.

Attachment

1 ADVISORY OPINION 2014-06

2

3 Timothy E. Kronquist, Esq.

4 Michael Bayes, Esq.

5 Holtzman Vogel Josefiak PLLC

6 45 North Hill Drive

7 Suite 100

8 Warrenton, VA 20186

9

DRAFT C

10 Dear Messrs. Kronquist and Bayes:

11 We are responding to your advisory opinion request on behalf of Representative Paul
12 Ryan, Ryan for Congress, Inc., and Prosperity Action, Inc., concerning the application of the
13 Federal Election Campaign Act, 2 U.S.C. §§ 431-57 (the “Act”), and Commission regulations to
14 the publication, promotion, purchase, and distribution of a book authored by Representative
15 Ryan. The Commission concludes that the requestors may engage in the proposed activities in
16 accordance with the requirements described below.

17 ***Background***

18 The facts presented in this advisory opinion are based on your letter received on June 30,
19 2014.

20 Representative Ryan is a member of the U.S. House of Representatives representing the
21 First Congressional District of Wisconsin, and he is a candidate for re-election to the House of
22 Representatives. Ryan for Congress is Representative Ryan’s principal campaign committee.
23 Prosperity Action is a leadership PAC sponsored by Representative Ryan.

24 In August 2014, Grand Central Publishing (the “Publisher”), a division of the
25 international publishing company Hachette Book Group, will publish a book authored by
26 Representative Ryan entitled *The Way Forward*. The book will address “the state of the
27 conservative movement in America today, discuss how it contrasts with liberal progressivism,
28 and explain what must be done to save what Representative Ryan refers to as the ‘American

1 Idea.” Advisory Opinion Request at 2 (June 30, 2014) (“AOR”). The Publisher will promote
2 and market the book through a variety of events in which Representative Ryan will participate,
3 including a promotional bus tour to various cities around the country, book signings, media
4 appearances on national and local television and radio shows, and interviews with print and
5 online media. Although the bus tour will not travel through or stop in Wisconsin, some of the
6 television and radio appearances and print and online media interviews will likely be available
7 within media markets covering Representative Ryan’s district. The Publisher intends to pay all
8 costs associated with obtaining and operating the tour bus.

9 Representative Ryan’s agreement with the Publisher provides for the payment to
10 Representative Ryan of royalties based on what the request describes as an industry-standard
11 percentage of net sales revenue. The request states that there will be no advance payment of
12 royalties to Representative Ryan, in accordance with Rule 25 of the Rules of the House of
13 Representatives. The request also states that all costs incurred by the Publisher in connection
14 with the promotional bus tour will be in accordance with the agreement and the Rules of the
15 House of Representatives, which require that such activities be conducted on the same or equal
16 terms as are made available to other authors who are not Members of Congress.

17 Ryan for Congress and Prosperity Action each propose to purchase copies of the book to
18 be distributed solely to their respective supporters and contributors. Both Ryan for Congress and
19 Prosperity Action would purchase the book in bulk directly from the Publisher at the standard
20 discounted bulk rate the Publisher offers, under normal industry practice, to other large
21 purchasers. Neither Ryan for Congress nor Prosperity Action will purchase more books than the
22 number needed to fulfill the purpose of distribution to each entity’s supporters and contributors.
23 The Publisher will be instructed to exclude all associated royalties from the bulk purchases by

1 both entities from the royalty calculation, and the Publisher will donate any royalties generated
2 by these purchases directly to a section 501(c)(3) charitable organization that is not in any way
3 associated with Representative Ryan or his family.

4 Representative Ryan and Ryan for Congress wish to advertise and market the sale of the
5 book in various ways. Ryan for Congress plans to promote the book on its website, which is
6 updated daily. Any references or information related to the Representative's book on this
7 website would be limited to one-to-two sentences in length — including hyperlinks directing
8 readers to the Publisher's website or to an online book seller (such as Amazon.com) — except
9 that Ryan for Congress would like to include on its website longer references to the book if the
10 Act and Commission regulations so permit. Ryan for Congress states that the cost of placing the
11 promotional material on its website would be *de minimis*. Ryan for Congress also plans to
12 promote the book through information and hyperlinks distributed via its social media pages,
13 including Twitter and Facebook. References or information related to the book on social media
14 would include information regarding buying the book or attending book tour events and
15 appearances, and similar promotional content.

16 Prosperity Action also wishes to advertise and market the sale of the book on its website
17 and social media pages. Such references to the Representative's book would provide basic
18 information about it and give details regarding purchasing the book or attending book tour events
19 and appearances, and similar promotional content.

20 As part of its fundraising appeals and other efforts to advocate Representative Ryan's re-
21 election, Ryan for Congress plans to send to its existing email lists emails that reference the
22 Representative's book. Prosperity Action likewise plans to send to its existing email lists emails

1 that reference the book for fundraising purposes and in the context of other election-related
2 activities for the purpose of influencing one or more elections for federal office.

3 Representative Ryan intends to use personal funds to purchase or rent email and mailing
4 lists maintained by both Ryan for Congress and Prosperity Action. Representative Ryan intends
5 to use these lists to promote his book, such as by sending emails announcing its publication.

6 Representative Ryan will enter into separate list rental agreements with Ryan for Congress and
7 Prosperity Action. Each agreement will provide for Representative Ryan to pay the fair market
8 value for renting the lists, as determined by an independent list appraisal. The request further
9 states that the list rental agreements will comply with the requirements set forth in Advisory
10 Opinion 2002-14 (Libertarian National Committee).

11 ***Questions Presented***

12 *1a. May Ryan for Congress use campaign funds to purchase copies of The Way Forward*
13 *directly from the Publisher, at the standard discounted bulk rate, for subsequent distribution to*
14 *Ryan for Congress supporters and for other campaign-related activities?*

15 *1b. Does Ryan for Congress's purchase of books from the Publisher at the standard,*
16 *discounted bulk rate result in an in-kind contribution from the Publisher to Ryan for Congress?*

17 *2a. May Prosperity Action use committee funds to purchase copies of The Way Forward*
18 *directly from the Publisher, at the standard discounted bulk rate, for subsequent distribution to*
19 *Prosperity Action supporters and for other election-related activities?*

20 *2b. Does Prosperity Action's purchase of books from the Publisher at the standard,*
21 *discounted bulk rate result in an in-kind contribution from the Publisher to Prosperity Action?*

22 *3. May Ryan for Congress place material promoting The Way Forward on its website and*
23 *social media pages so long as the cost of doing so is de minimis?*

1 4. *May Prosperity Action place material promoting The Way Forward on its website and*
2 *social media pages?*

3 5. *May Representative Ryan use the Ryan for Congress and Prosperity Action email and*
4 *mailing lists to promote the sale of The Way Forward if Representative Ryan reimburses each*
5 *committee for the lists' fair market value based on an independent list appraisal?*

6 6. *Are the Publisher's costs and expenses for the publication of Representative Ryan's book*
7 *covered by the media exemption?*

8 7. *Is the Publisher's payment of costs incurred in connection with the promotion of*
9 *Representative Ryan's book, including a bus tour, covered by the media exemption?*

10 8. *Are the Publisher's costs and expenses for the publication and promotion of*
11 *Representative Ryan's book exempt from the Act's regulation because they are bona fide*
12 *commercial activity?*

13 ***Legal Analysis and Conclusions***

14 1a. *May Ryan for Congress use campaign funds to purchase copies of The Way Forward*
15 *directly from the Publisher, at the standard discounted bulk rate, for subsequent distribution to*
16 *Ryan for Congress supporters and for other campaign-related activities?*

17 Yes, Ryan for Congress may use campaign funds to purchase copies of the book from the
18 Publisher at the standard discounted bulk rate for distribution to supporters and for other
19 campaign-related activities.

20 Under the Act and Commission regulations, an authorized committee may spend its funds
21 to finance activities “in connection with the candidate’s campaign for federal office.” 2 U.S.C.
22 § 439a(a)(1); 11 C.F.R. § 113.2(a) (providing that campaign funds may be used to “defray[]
23 expenses in connection with a campaign for federal office”). Such spending must not, however,

1 result in the conversion of campaign funds to the personal use of the candidate or any other
2 person. 2 U.S.C. § 439a(b); 11 C.F.R. §§ 113.1(g), 113.2(e).

3 The Act provides that campaign funds “shall be considered to be converted to personal
4 use if [the funds are] used to fulfill any commitment, obligation or expense of a person that
5 would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of
6 Federal office.” 2 U.S.C. § 439a(b); *see also* 11 C.F.R. § 113.1(g). The Act and Commission
7 regulations provide a non-exhaustive list of uses of campaign funds that are *per se* personal use.
8 2 U.S.C. § 439a(b)(2); 11 C.F.R. § 113.1(g)(1)(i). For uses of campaign funds not on this list,
9 the Commission determines, on a case-by-case basis, whether they constitute personal use. 11
10 C.F.R. § 113.1(g)(1)(ii).

11 The purchase of a candidate’s book is not one of the *per se* personal uses listed in the Act
12 and Commission regulations. *See* 2 U.S.C. § 439a(b)(2); 11 C.F.R. § 113.1(g)(1)(i).
13 Accordingly, the Commission determines on a case-by-case basis whether such a purchase by an
14 authorized committee is personal use. *See, e.g.*, Advisory Opinion 2011-02 (Brown); Advisory
15 Opinion 2006-18 (Granger); Advisory Opinion 2004-18 (Lieberman); Advisory Opinion 2001-
16 08 (Specter); Advisory Opinion 1995-46 (D’Amato); Advisory Opinion 1993-20 (Nighthorse
17 Campbell).

18 The facts presented in this request are particularly similar to those presented in Advisory
19 Opinion 2001-08 (Specter) and Advisory Opinion 2011-02 (Brown). In each of those advisory
20 opinions, the Commission determined that the authorized committee’s use of campaign funds to
21 purchase copies of its candidate’s book would defray an expense that would not exist irrespective
22 of the campaign, and therefore the spending would not be an impermissible personal use. The
23 Commission’s conclusion in each of those advisory opinions was based on several facts: The

1 authorized committee's funds would be used to purchase the book solely for distribution to the
2 committee's contributors and supporters, and thus would be used by the committee only for the
3 purpose of influencing its candidate's election to federal office; the quantity purchased would not
4 exceed the number needed for this described purpose; all royalties attributable to the committee's
5 purchase would be paid by the publisher to charity; and the committee's purchase would be
6 excluded by the publisher from the royalty calculation. Advisory Opinion 2011-02 (Brown) at
7 5-6; Advisory Opinion 2001-08 (Specter) at 3.

8 Similarly here, Ryan for Congress's funds would be used to purchase the book solely for
9 distribution to contributors and supporters, and the quantity purchased would not exceed the
10 number needed for such distribution. Thus the purchased books would be used by Ryan for
11 Congress only "in connection with" Representative Ryan's election. *See* 2 U.S.C. § 439a(a)(1);
12 11 C.F.R. § 113.2(a).

13 The requestors' proposal is also consistent with the Commission's prior conclusions
14 regarding a candidate's book royalties. The Commission concluded in Advisory Opinion 2001-
15 08 (Specter) and Advisory Opinion 2011-02 (Brown) that no personal use results if the publisher
16 (1) donates the candidate's royalties for his campaign's book purchases to a charitable
17 organization that is not associated with the candidate and (2) excludes such sales from the
18 calculation of royalties that accrue to the candidate. These are precisely the terms of the
19 agreement proposed between Representative Ryan and the Publisher here. Consistent with prior
20 Commission advice, the Publisher's direct contribution to charity of royalties from Ryan for

1 Congress's purchase of the book will not result in conversion of campaign funds to
2 Representative Ryan's personal use.¹

3 Accordingly, as in Advisory Opinion 2001-08 (Specter) and Advisory Opinion 2011-02
4 (Brown), the Commission concludes that Ryan for Congress's proposed use of campaign funds
5 to purchase Representative Ryan's book for distribution to contributors and supporters will
6 defray an expense that would not exist irrespective of his campaign and will not be an
7 impermissible personal use of campaign funds, so long as all royalties for Ryan for Congress's
8 purchase are paid by the Publisher directly to charity and are not included in the calculation of
9 any royalties due to Representative Ryan.

10 *Ib. Does Ryan for Congress's purchase of books from the Publisher at the standard,*
11 *discounted bulk rate result in an in-kind contribution from the Publisher to Ryan for Congress?*

12 No, Ryan for Congress's purchase of books from the Publisher at the standard,
13 discounted bulk rate does not result in an in-kind contribution from the Publisher to Ryan for
14 Congress.

15 The term "contribution" includes "anything of value" given for the purpose of
16 influencing an election or given by a corporation to a political committee in connection with a
17 federal election. 2 U.S.C. §§ 431(8)(A)(i), 441b(b)(2); 11 C.F.R. §§ 100.7(a)(1), 114.1(a)(1).
18 "Anything of value" includes providing goods or services at less than the usual and normal
19 charge. 11 C.F.R. § 100.7(a)(1)(iii)(A). The "usual and normal charge" for goods is the price of
20 those goods in the market from which they ordinarily would have been purchased at the time of
21 the transaction at issue. 11 C.F.R. § 100.7(a)(1)(iii)(B). The sale of goods or services at a

¹ Representative Ryan "must also not receive any personal benefit, tangible or intangible, for the royalties the Publisher donates to charity for the sales of the book to [his campaign committee]." Advisory Opinion 2011-02 (Brown) at 6.

1 discount does not result in a contribution when the discount is made available in the ordinary
2 course of business and on the same terms and conditions to the vendor's other customers that are
3 not political organizations or committees. *See, e.g.*, Advisory Opinion 2004-18 (Lieberman) at
4 3; Advisory Opinion 2001-08 (Specter) at 3; Advisory Opinion 1996-02 (CompuServe);
5 Advisory Opinion 1995-46 (D'Amato) at 3.

6 As in Advisory Opinion 2004-18 (Lieberman) and Advisory Opinion 2001-08 (Specter),
7 Ryan for Congress indicates that the bulk rate it will pay is a standard, discounted price that the
8 Publisher, under normal industry practice, makes available on equal terms to other bulk
9 purchasers that are not political organizations or committees. Accordingly, the Commission
10 concludes that Ryan for Congress's payment of the standard, discounted bulk rate will not result
11 in a contribution from the Publisher.

12 *2a. May Prosperity Action use committee funds to purchase copies of The Way Forward*
13 *directly from the Publisher, at the standard discounted bulk rate, for subsequent distribution to*
14 *Prosperity Action supporters and for other election-related activities?*

15 The Commission concludes that, under the circumstances described in the request, the
16 conduct proposed in Question 2a is not in violation of the Act or Commission regulations. The
17 Commission could not agree as to the legal basis for that conclusion by the required
18 four affirmative votes. 2 U.S.C. § 437c(c); 11 C.F.R. § 112.4(a).

19 *2b. Does Prosperity Action's purchase of books from the Publisher at the standard,*
20 *discounted bulk rate result in an in-kind contribution from the Publisher to Prosperity Action?*

21 No, Prosperity Action's purchase of books from the Publisher at the standard, discounted
22 bulk rate does not result in an in-kind contribution from the Publisher to Prosperity Action.

1 As discussed above with respect to Ryan for Congress’s purchase of books at the
2 discounted bulk rate, the sale of goods or services at a discount does not result in a contribution
3 when the discount is made available in the ordinary course of business and on the same terms
4 and conditions to the vendor’s other customers that are not political organizations or committees.
5 As in Advisory Opinion 2004-18 (Lieberman) and Advisory Opinion 2001-08 (Specter),
6 Prosperity Action indicates that the bulk rate it will pay is a standard, discounted price that the
7 Publisher, under normal industry practice, makes available on equal terms to other purchasers
8 that are not political organizations or committees. Accordingly, the Commission concludes that
9 Prosperity Action’s payment of the standard, discounted bulk rate will not result in a contribution
10 from the Publisher.

11 3. *May Ryan for Congress place material promoting The Way Forward on its website and*
12 *social media pages so long as the cost of doing so is de minimis?*

13 Yes, Ryan for Congress may post a *de minimis* amount of material promoting the book on
14 its website and social media pages at a *de minimis* cost.

15 The Act provides that an unlawful conversion of campaign funds to personal use occurs
16 when such funds are “used to fulfill any commitment, obligation, or expense of a person that
17 would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of
18 Federal office.” 2 U.S.C. § 439a(b)(2); *see also* 11 C.F.R. § 113.1(g). The Commission has
19 previously determined that the expenses associated with marketing a book that a commercial
20 publisher publishes and for which it pays royalties to the candidate are expenses that would exist
21 irrespective of the candidate’s election campaign or duties as a federal officeholder. *See*
22 Advisory Opinion 2011-02 (Brown) at 6; Advisory Opinion 2006-07 (Hayworth) at 3; Advisory
23 Opinion 2006-18 (Granger) at 3. Therefore, the use of an authorized committee’s asset, such as

1 its website, to promote the candidate's book would ordinarily constitute a prohibited personal
2 use. *See* Advisory Opinion 2011-02 (Brown) at 6; Advisory Opinion 2006-07 (Hayworth) at 3;
3 Advisory Opinion 2006-18 (Granger) at 3.

4 However, the Commission also previously has concluded that the addition of a small
5 amount of promotional material about a candidate's book to an authorized committee's website
6 or social media pages does not constitute a prohibited personal use of campaign funds, provided
7 that both the amount of promotional material and the cost to the committee are *de minimis*. *See*
8 Advisory Opinion 2011-02 (Brown) at 7; Advisory Opinion 2006-07 (Hayworth) at 3. In one
9 instance, the Commission concluded that a proposal to post promotional material comprising up
10 to 25 percent of the authorized committee's website's homepage, 25 percent of the committee's
11 Facebook page, 10 percent of the committee's Twitter page, and 25 percent of the candidate's
12 LinkedIn page did not appear to represent a *de minimis* amount of material. Advisory Opinion
13 2011-02 (Brown) at 7. In another instance, the Commission concluded that the addition of one
14 or two sentences of promotional material about a candidate's book to an authorized committee's
15 substantial website was *de minimis*. Advisory Opinion 2006-07 (Hayworth) at 3.

16 Here, Ryan for Congress proposes to promote the book on its website, limiting references
17 to the book to one or two sentences that include hyperlinks to additional information on the
18 Publisher's website or to online booksellers. Ryan for Congress states that the cost of adding
19 this material to the committee's website would be *de minimis*. The committee also proposes to
20 promote the book through similar brief references and hyperlinks on its social media pages,
21 which, the request notes, are generally free to use.² The Commission concludes that the amount

² Paid advertising can be purchased on Facebook and Twitter, but such advertising "is not contemplated here." AOR at 9.

1 of such material promoting the book is *de minimis* and Ryan for Congress may place them on its
2 website and social media pages, so long as the cost of doing so is *de minimis*.

3 4. *May Prosperity Action place material promoting The Way Forward on its website and*
4 *social media pages?*

5 The Commission could not agree to a conclusion by the required four affirmative votes.
6 2 U.S.C. § 437c(c); 11 C.F.R. § 112.4(a).

7 5. *May Representative Ryan use the Ryan for Congress and Prosperity Action email and*
8 *mailing lists to promote the sale of The Way Forward if Representative Ryan reimburses each*
9 *committee for the lists' fair market value based on an independent list appraisal?*

10 Yes, Representative Ryan may use the Ryan for Congress and Prosperity Action email
11 and mailing lists to promote the sale of *The Way Forward* if Representative Ryan reimburses
12 each committee for its lists' fair market value.

13 The Commission has long recognized that a political committee's mailing lists are assets
14 that have value and that are frequently sold, rented, or exchanged in a market. *See, e.g.,*
15 *Advisory Opinion 2011-02 (Brown) at 7-8; Advisory Opinion 2002-14 (Libertarian National*
16 *Committee) at 4-5; Advisory Opinion 1982-41 (Dellums) at 2; Advisory Opinion 1981-46*
17 *(Dellums) at 2.* Thus, as to Representative Ryan's rental of Ryan for Congress's mailing lists,
18 the relevant question is whether the Representative's rental constitutes personal use of the
19 Committee's asset. Commission regulations provide that "the transfer of a campaign committee
20 asset is not personal use so long as the transfer is for fair market value." 11 C.F.R. § 113.1(g)(3).
21 Accordingly, Representative Ryan's proposal to rent his campaign committee's mailing lists for
22 their fair market value, as determined by an independent list broker, is permissible.

1 As discussed above, the personal use prohibition implemented in 11 C.F.R. § 113.1(g)
2 does not apply to leadership PACs, but 11 C.F.R. § 113.1(g)(6) provides that third-party
3 defrayals of a candidate's expenses that would otherwise constitute personal use are
4 contributions to that candidate. By providing its mailing list to Representative Ryan for purposes
5 of marketing his book, Prosperity Action would defray some of his personal marketing expenses,
6 and therefore section 113.1(g)(6) is potentially implicated here. The Commission has
7 determined, however, that no contribution results when a political committee leases its mailing
8 list, provided that: (1) the mailing list has an ascertainable fair market value; (2) the political
9 committee leases the mailing list at the usual and normal charge in a *bona fide*, arm's-length
10 transaction; and (3) the list is used in a commercially reasonable manner consistent with such
11 arm's-length agreement. Advisory Opinion 2002-14 (Libertarian National Committee) at 4.
12 Representative Ryan proposes to enter into a list rental agreement with Prosperity Action that
13 will comply with the requirements of Advisory Opinion 2002-14 (Libertarian National
14 Committee), including payment of fair market value for the lists. Therefore, Representative
15 Ryan's rental of Prosperity Action's mailing lists will not result in a contribution by Prosperity
16 Action to Representative Ryan under 11 C.F.R. § 113.1(g)(6).³

17 6. *Are the Publisher's costs and expenses for the publication of Representative Ryan's book*
18 *covered by the media exemption?*

19 7. *Is the Publisher's payment of costs incurred in connection with the promotion of*
20 *Representative Ryan's book, including a bus tour, covered by the media exemption?*

³ The rental payments at fair market value also will not constitute contributions from Representative Ryan to Prosperity Action. See Advisory Opinion 2002-14 (Libertarian National Committee) at 5.

1 8. *Are the Publisher's costs and expenses for the publication and promotion of*
2 *Representative Ryan's book exempt from the Act's regulation because they are bona fide*
3 *commercial activity?*

4 Yes, the Publisher's costs and expenses for the publication and promotion of
5 Representative Ryan's book are not subject to the Act's regulation because they are *bona fide*
6 commercial activity.

7 The Publication and Promotion of the Book are *Bona Fide* Commercial Activity

8 The Act and Commission regulations limit the term "contribution" to "any gift,
9 subscription, loan, advance, or deposit of money or anything of value made by any person *for the*
10 *purpose of influencing any election for Federal office.*" 2 U.S.C. § 431(8)(A)(i) (emphasis
11 added); *see also* 11 C.F.R. § 100.52. For corporations, "the term 'contribution or expenditure'
12 also includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of
13 money, or any services, or anything of value . . . to any candidate . . . *in connection with any*
14 *election.*" 2 U.S.C. § 441b(b)(2) (emphasis added). A corporation's *bona fide* commercial
15 activity is neither "for the purpose of influencing any election for federal office" nor "in
16 connection with any election" and thus is not a contribution or otherwise subject to regulation
17 under the Act. *See, e.g.,* First Gen. Counsel's Rpt. at 13-17, MUR 5474 and 5539 (Dog Eat Dog
18 Films, Inc.) (May 25, 2005) ("Dog Eat Dog"); Advisory Opinion 1994-30 (Conservative
19 Concepts/Pence) at 3-7; Advisory Opinion 1989-21 (Create-a-Craft) at 4. In determining
20 whether activity is *bona fide* commercial activity, the Commission has identified a number of
21 factors, including: "(1) whether the sales of the merchandise involve fundraising activity or
22 solicitations for political contributions; (2) whether the activity is engaged in by the vendor for
23 genuinely commercial purposes and not for the purpose of influencing an election; (3) whether

1 the items are sold at the vendor’s usual and normal charge; and (4) whether the purchases are
2 made by individuals for their personal use.” Dog Eat Dog at 14; *see also* Advisory Opinion
3 1994-30 (Conservative Concepts/Pence) at 4; Advisory Opinion 1989-21 (Create-a-Craft) at 4.

4 The Publisher’s activities, as described in the request, would involve only the publication,
5 promotion, and sale of Representative Ryan’s book, not any fundraising activity or solicitations
6 for political contributions for Representative Ryan, Ryan for Congress, or Prosperity Action.
7 AOR at 16. Such publication, promotion, and sale — especially as conducted by a “long
8 established and prominent publisher” that “publishes a wide variety of different types of books,
9 both political and non-political,” *id.* at 1, 16 — are genuine commercial activity on their face.
10 There is no indication in the request that the Publisher seeks to influence a federal election. All
11 of Representative Ryan’s books will be sold at usual and normal sales prices (including standard
12 bulk discounts, where applicable). *See id.* at 2, 16. Based on these representations, the
13 Commission concludes that the Publisher’s publication of Representative Ryan’s book and
14 payment of the related promotional costs described in the request are *bona fide* commercial
15 activity, and thus they are outside the scope of the Act’s regulation.⁴

16 This response constitutes an advisory opinion concerning the application of FECA and
17 Commission regulations to the specific transaction or activity set forth in your request. *See* 2
18 U.S.C. § 437f. The Commission emphasizes that, if there is a change in any of the facts or
19 assumptions presented, and such facts or assumptions are material to a conclusion presented in
20 this advisory opinion, then the requestors may not rely on that conclusion as support for their

⁴ The request asks whether the Publisher’s activities are covered by the media exemption from the definitions of “expenditure” and “contribution.” 2 U.S.C. §§ 431(9)(B)(i); *see also* 11 C.F.R. §§ 100.73, 100.132. Because the Publisher’s publication of Representative Ryan’s book and related promotional activities are *bona fide* commercial activity, and thus already outside the scope of the Act’s regulation, the Commission need not determine whether the same activities would also qualify for the media exemption.

1 proposed activity. Any person involved in any specific transaction or activity which is
2 indistinguishable in all its material aspects from the transaction or activity with respect to which
3 this advisory opinion is rendered may rely on this advisory opinion. *See* 2 U.S.C.
4 § 437f(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be
5 affected by subsequent developments in the law including, but not limited to, statutes,
6 regulations, advisory opinions, and case law. Any advisory opinions cited herein are available
7 on the Commission's website.

8 On behalf of the Commission,

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10
11
12 Lee E. Goodman
13 Chairman