

# INDIAN-AMERICAN LEADERSHIP INVESTMENT FUND

3939 RIO GRANDE BLVD., NW #57 • ALBUQUERQUE, NM 87107-3153 • 505.848.1800 (o)

25 May 1995

BY FACSIMILE & MAIL

Brad Litchfield  
Associate General Counsel for Policy  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

AOR 1995-19

MAY 31 12 00 PM '95

RE: REQUEST FOR ADVISORY OPINION  
Indian-American Leadership Investment Fund, FEC I.D. No: C00283184

Dear Mr. Litchfield:

We are writing to request an advisory opinion from the Federal Election Commission as to our appropriate course of action at the present time as a political action committee. The circumstances in which we find ourselves are described, below.

### Facts.

On Thursday April 27 I was contacted by, and on Friday April 28 I met with, a reporter for the *Baltimore Sun* newspaper, Jim Haner. During our April 28th discussion, Mr. Haner informed me that he had conducted an investigation of contributors to our PAC from the Baltimore area. He indicated that he discovered that an unspecified number of these individuals (although not all) did not appear to have the financial means to make the size of contributions that they had. Mr. Haner alleged further that some of these contributors suggested that they had been improperly reimbursed for making contributions. The specificity and seriousness of the reporter's allegations led me as Treasurer to notify the FEC by facsimile on the afternoon of April 28 that there may have been a violation of federal election law. I have been told by Mary Tackser in your office that this letter will be treated as a *sua sponte* submission from the political action committee and that an FEC investigation may be pending. I have also received written acknowledgement from Ms. Tackser to that effect.

All of the Indian-American Leadership Investment Fund's contributions from Maryland had been collected and transmitted to us by Mr. Lalit H. Gadhia, a Baltimore attorney. At the time these contributions were received, I as treasurer examined them for evidence of illegality and found that they presented no such questions. Thus, the monies were duly deposited in the PAC's account and drawn upon. As yet, I have no information verifying the illegality of any of these contributions other than what was reported in the *Baltimore Sun* article of Wednesday, May 4, 1995, which with you have previously indicated to me the Commission is familiar. I have been contacted by the Federal Bureau of Investigation for information and documents pertaining to this matter, which I have provided. I have not yet heard from the FEC regarding any investigation.

### Applicable Law.

Federal regulations appear to address only two scenarios regarding illegal contributions to political action committees. The first is the situation in which a treasurer has reason to suspect

*Paid for by the Indian-American Leadership Investment Fund and not authorized by any other candidate or candidate's committee.*

at the time of receipt that contributions may be improper. In that case, the treasurer is required to exercise "best efforts" to verify the legality of the contribution. This may culminate in either a written statement from, or a written memorandum of oral communications with, contributors attesting to the legality of their respective contributions. 11 C.F.R. § 103.3(b)(1) (1995). As I have indicated, above, we had no reason to suspect at the time these contributions were received that there was anything improper about them.

The second scenario involves the case of a treasurer who has already deposited funds that at the time of receipt seemed proper, but who "later discovers" that the contributions are illegal based on new evidence not available at the time of receipt and deposit. In that situation, the PAC must refund the improper contributions, or if no funds are available, refund the contributions from any incoming funds. 11 C.F.R. § 103.3(b)(2) (1995). As I have indicated, we do not yet "know" what if any contributions are improper, as we have not conducted our own independent investigation in light of the pending FBI and FEC inquiries. We do not wish to interfere with or unwittingly obstruct those pending investigations, and also do not know to what extent our own queries would be fruitful or provide reliable information under the present, sensitive circumstances.

In short, it is unclear to us whether the federal regulations address the responsibilities of a PAC treasurer under a third scenario: where contributions appear to be legitimate at the time of receipt and deposit, but *suspicious* are later raised that demand further factfinding and confirmation. This general scenario is further complicated in our present situation by the existence of parallel federal investigations.

#### **Proposed Course of Action.**

We propose either or both of the following two possible courses of action:

- (1) A mailing to Maryland contributors of letters that describe proper criteria for contributions—including the invalidity of reimbursed contributions—and that request a signed statement confirming the legality of contributions made.
- (2) An effort to obtain the telephone numbers of all Maryland contributors, followed by an effort to contact all Maryland contributors by telephone and request their oral confirmation of the legality of the contributions made. These conversations would be memorialized in a written memorandum from the Treasurer.

#### **Questions Presented.**

Thus, the four questions that we would present to the Commission are as follows:

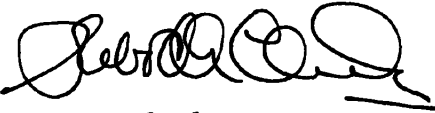
- (1) Given the facts described above, are either or both of the proposed courses of action outlined *required* of the PAC or its treasurer?
- (2) Given the facts described above, are either or both of the proposed courses of action outlined *permitted* of the PAC or its treasurer?
- (3) Given the facts described above, are either or both of the proposed courses of action outlined *advisable* for the PAC or its treasurer to undertake?

(4) Given the facts and proposed courses of action described above, what alternative or additional courses of action would the Commission require, permit, or advise the PAC or its treasurer to undertake?

We would deeply appreciate the Commission's response to these questions as soon as possible. To avoid any risk of interference with the federal investigations, we will delay pursuing any investigative course of action until we hear from the Commission what actions are required, permitted, or advisable. We also trust that any specific timing requirements, should any course of action be required, will be delayed to toll only when we receive an answer—and we would greatly appreciate assurances to this effect.

In the meantime, if we can be of service to the Commission in its investigation, please do not hesitate to contact us.

Most respectfully,

A handwritten signature in black ink, appearing to read "Subodh Chandra", with a horizontal line underneath.

Mr. Subodh Chandra  
Treasurer