EXHIBIT C-1

REPRESENTATIVE
Bruce Westerman
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DISTRICT 22

Counties:
Part Garland
Part Saline

COMMITTEES:

Revenue and Taxation
Chairperson,
Complaints and Remediation
Subcommittee

State Agencies and Governmental Affairs
Constitutional Issues Subcommittee

Joint Performance Review

Legislative Council

STATE OF ARKANSAS

House of Representatives

January 15, 2014

Representative Stephanie Malone, Chair
House Committee on Rules
2105 South O Street
Fort Smith, AR 72901-5737

Dear Representative Malone:

Please accept this letter as a request for determination by the House Committee on Rules as to whether Rule 108 of the Rules of the House of Representatives of the 89th General Assembly—specifically the prohibition of Members taking contributions during a fiscal session—is applicable to Members running for either Federal office or State Constitutional office.

As you know, I am a candidate for Federal office, but with the large bipartisan number of Members running for either Federal office or State Constitutional office, I feel it is necessary to obtain a determination from the House Committee on Rules.

For consideration by Members of the Committee, I submit Federal Election Commission ADVISORY OPINION 1995-48 for consideration of how Federal law relates to the current prohibition found in Rule 108.

Due to the impending February 10, 2014, start of the fiscal session in Arkansas, I ask for a determination in as expeditious manner as the Committee can supply.

Sincerely,

Bruce Westerman
State Representative
District 22

BW/adp
Enclosure

cc: Representative Davy Carter, Speaker of the House
Finos "Buddy" Johnson, House Parliamentarian

FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 26, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1995-48

Kenneth A. Gross
Skadden, Arps, Slate, Meager & From
1440 New York Avenue, NW
Washington, DC 20005-211

Dear Mr. Gross:

This responds to your letter dated December 22, 1995, concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a Georgia statute regulating political contributions made to State legislators.

Your client, Day for Senate ("the Committee"), is the principal campaign committee of Clinton Day, a member of the Georgia State Senate. Mr. Day is a candidate for the Republican nomination for election from Georgia to the U.S. Senate. You indicate that a Georgia statute purports to curtail fundraising by the Committee.[1] Under the Georgia law, the Committee may not receive contributions during the period the State legislature is in session. The Committee, however, proposes to accept contributions for Mr. Day's Federal election campaign during this period. You wish to know whether Federal law preempts the application of the Georgia law to Mr. Day's Federal candidacy.

The Act states that its provisions and the rules prescribed thereunder, "supersede and preempt any provision of State law with respect to election to Federal office." 2 U.S.C. 453. The House committee that drafted this provision intended "to make certain that the Federal law is construed to occupy the field with respect to elections to Federal office and that the Federal law will be the sole authority under which such elections will be regulated." H.R. Rep. No. 93-1239, 93d Cong., 2d Sess. 10 (1974).

According to the Conference Committee report on the 1974 Amendments to the Act, "Federal law occupies the field with respect to criminal sanctions relating to limitations on

campaign expenditures, the sources of campaign funds used in Federal races, the conduct of Federal campaigns, and similar offenses, but does not affect the States' rights" as to other areas such as voter fraud and ballot theft. H.R. Rep. No. 93-1438, 93d Cong., 2d Sess. 69 (1974). The Conference report also states that Federal law occupies the field with respect to reporting and disclosure of political contributions to and expenditures by Federal candidates and political committees, but does not affect State laws as to the manner of qualifying as a candidate, or the dates and places of elections. Id. at 100-101.

The Commission issued regulations that embody the explicit Congressional intent to preempt. The regulations provide, inter alia, that "Federal law supersedes State law concerning the ... [l]imitation on contributions and expenditures regarding Federal candidates and political committees." 11 CFR 108.7(b)(3). The regulations also list the types of State election laws that are "interests of the State" and are not preempted, i.e., laws governing the manner of qualifying as a candidate or political party organization, dates and places of elections, voter registration, voting fraud and similar offenses, or candidates' personal financial disclosure. 11 CFR 108.7(c). Federal Election Commission Regulations, Explanation and Justification, House Document No. 95-44, at 51 (1977).

The Georgia provision, as applied to Federal candidates, does not regulate those areas defined as interests of the State. Instead, it places restrictions on the time period when contributions may be made to Federal candidates, an area to be regulated solely by Federal law. The Act prescribes prohibitions and limitations on contributions with respect to Federal candidates and political committees. See 2 U.S.C. 441a, 441b, 441c, and 441e. The Commission has clarified how the timing of a contribution determines which election limit applies, and when a contribution made after an election for debt retirement is impermissible. 11 CFR 110.1(b) and 110.2(b). The Act and Commission regulations also address how quickly contributions must be forwarded and deposited. 2 U.S.C. 432(b); 11 CFR 102.8 and 103.3. The Act contains no provisions similarly limiting contributions made to Federal candidates during a State or Federal legislative session. Under the broad preemptive powers of the Act, only Federal law could limit the time during which a contribution may be made to the Federal election campaign of a State legislator. See Advisory Opinions 1993-25, 1989-12 and 1988- 21. See also Advisory Opinion 1992-43.

Furthermore, in previous opinions, the Commission has concluded that the Act preempts State law prohibitions on contributions by State lobbyists during a State legislative session and prohibitions on contributions made by State lottery contractors to a U.S. Senate candidate. Advisory Opinions 1993-25 and 1989-12. The Commission has found that the Act preempts a county provision limiting contributions by "County Influence Brokers" to the Federal campaign of a member of the County Board of Supervisors, and a State law prohibition on contributions by lobbyists to the Federal campaign of an elected State officer. Advisory Opinions 1994-2, 1988-21, and 1978-66. The Commission has also held that the Act preempts State time limits for the acceptance by a State legislator's Federal campaign of contributions to retire the Federal campaign debt. Advisory Opinion 1992-43.

The Commission concludes, therefore, that the Georgia provision is preempted with respect to Mr. Day's campaign for the U.S. Senate, and the Committee may accept contributions,

if otherwise lawful under the Act, during the period when the Georgia State legislature is in session.[2]

This response constitutes an advisory opinion concerning the application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely,

(signed)

Lee Ann Elliott
Chairman

Enclosures (AOs 1994-2, 1993-25, 1992-43, 1989-12, 1988-21, and 1978-66)

1 The specific provision is found at O.C.G.A. § 21-5-35(a) which states:

No member of the General Assembly or that member's campaign committee or public officer elected state wide or campaign committee of such public officer shall accept a contribution during a legislative session.

2 The Commission notes that its conclusion here is identical to that reached by the United States District Court for the Northern District of Georgia in *Teper v. Bowers*, No. 1:96- CV-0009-WBH (ND Ga. January 16, 1996) (order granting preliminary injunction). The court issued a preliminary injunction on January 16, 1996, barring enforcement of the cited Georgia statute "as it relates to federal elections."