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# Federal Housing Finance Board

1777 F Street, N.W., Washington, D.C. 20006

Telephone: (202) 408-2500

Facsimile: (202) 408-2950

## FACSIMILE COVER

Date 10-10-02

TO: BRET KAVANAUGH

Telephone \_\_\_\_\_ Fax Number \_\_\_\_\_

FROM: JOHN KORSMO

Telephone (202) 408-2622 Fax Number \_\_\_\_\_

MESSAGE: \_\_\_\_\_

Number of Pages Sent (including cover) \_\_\_\_\_

**PLEASE DELIVER IMMEDIATELY**

Thank you for your inquiry regarding the October 1 campaign event sponsored by Chairman Michael Oxley, Representative Bob Ney, and Representative Mike Ferguson on behalf of Rick Clayburgh, a candidate for the House of Representatives from my home state of North Dakota. As your letter noted, the invitation to this event indicated that I would be attending, and I did, indeed, attend, as a "special guest." Given the interest that has been generated by my participation in this event, I welcome the opportunity to address you directly on this matter and to correct numerous mistaken assumptions concerning the event and my, as your letter acknowledges, lawful participation in it.

Permit me to preface my responses to your specific questions by mentioning that I have known Rick Clayburgh and his family for more than twenty years. I was chairman of the North Dakota Republican Party when his father ran for the United States Senate in 1994; I served with his mother on the North Dakota Board of Higher Education; I was directly involved in his campaign to be North Dakota State Tax Commissioner when he was first elected to that office in 1996. I believe it is safe to say that my longstanding friendship with Mr. Clayburgh and members of his family is the reason I was asked to participate in a Washington campaign event on his behalf.

When Mr. Clayburgh approached me about participating, I informed him that, as a Presidential appointee confirmed by the Senate, I am permitted to speak at political events, I can urge people to vote for a political candidate, but I may not personally solicit or receive contributions on behalf of any candidate for public office. He asked if I would be permitted to introduce him at a campaign event, and I responded that I would make inquiry to confirm its propriety and get back to him.

I consulted the general counsel and the ethics officer at the Federal Housing Finance Board and was assured the level of involvement I outlined was appropriate. I obtained a copy of the invitation to the event from the Clayburgh campaign, provided that copy to the Finance Board's general counsel, and was told, again, it presented no legal concerns. I also raised the issue of my participation and the form of the invitation with Greg Walden, who is of counsel to the firm of Patton Boggs and is the ethics specialist who had recently completed work for the Finance Board in assisting us in developing new Standards of Conduct. Mr. Walden informed me that my participation and the invitation conformed to ethics standards. Having thus been counseled on the appropriateness of my participation and, again as your letter acknowledges, its lawfulness, I agreed to attend the event as a "special guest."

I believe your specific questions concerning my involvement can be generally addressed as follows: 1) I have not personally solicited and never will personally solicit any Federal Home Loan Bank executive for contributions to any candidate. Such solicitation is clearly prohibited by federal law. 2) I have not directed or tolerated and never will direct or tolerate any prohibited political activity by any Finance Board employee. And 3) No member of the Finance Board staff played any part in soliciting contributions for the October 1 Clayburgh event. Two Finance Board employees, both North Dakotans and

personal friends of Mr. Clayburgh, did, in fact, attend. Their attendance, however, was on their own time and lawful in every way.

I want to make clear that I have not personally solicited and never will personally solicit political contributions from members of my staff, my Finance Board colleagues, or any Finance Board employees. Again, such solicitation is clearly prohibited by federal law. I have not inquired as to whether any of my Finance Board colleagues or any members of the Finance Board staff have lawfully participated in supporting candidates. That is a personal and private choice and, if conducted lawfully, is beyond the scope of proper inquiry by any government employer.

Let me specifically stress that neither I nor any member of the Finance Board staff made any suggestions to the Clayburgh campaign as to whom to invite to the event or provided any "contact information" to the Clayburgh campaign or any of its representatives. I do not know who was invited to the event; I do not know who contributed. I do know that, in an Associated Press article published October 2 in North Dakota, Mr. Clayburgh is quoted as saying that invitations were sent to more than 500 political action committees and other potential donors. "We invited a whole slew of people to attend, PACs of all sorts," Mr. Clayburgh is quoted as saying. "It was kind of a last-minute thing to have John. John is a friend. It was not an event that was highlighting or targeted to anybody associated with John's job."

In retrospect, I acknowledge forthrightly I should have erred on the side of caution, as you suggest, by affirmatively requesting that Chairman Oxley, Representative Ney, Representative Ferguson, and the Clayburgh campaign refrain from inviting Federal Home Loan Bank personnel to avoid any possible misimpression that I was a sponsor, organizer, or host of the event. It, frankly, did not occur to me to do so. That was an oversight and a mistake on my part that I pledge not to repeat. Despite my oversight, however, there has been no credible suggestion that any of the organizers of the event misrepresented my participation in any way.

Finally, as I am not aware of which Federal Home Loan Bank executives were invited to the Clayburgh event, I am not able to respond directly as to whether any of those invited have any recent or ongoing formal or informal enforcement, supervisory, or examination matters pending before the Finance Board. I can state, clearly, however, that I do not and never will permit knowledge of political contributions or participation, or the lack thereof, to influence decisions I make regarding issues that come before the Finance Board. I believe my reputation with the presidents of the Federal Home Loan Banks in this regard is well established.

Thank you, also, Chairman Sarbanes, for calling attention in your letter to the new Standards of Conduct recently adopted by the Finance Board. As the comments I have made that are quoted in your letter reflect, I believe strongly a regulator must remain at arm's length from the internal business and management of regulated entities. I determined Standards of Conduct were necessary upon discovering it had become

accepted practice for Directors of the Finance Board to attend meetings of the boards of directors of the Federal Home Loan Banks, to comment on matters under discussion at those meetings, and subsequently to cast votes on issues brought before the Finance Board after having participated in the discussion of such issues at the Bank board meetings. I also sought enactment of the Standards to bring Finance Board practice into line with government-wide policies regarding payment for meals and entertainment provided to Finance Board Directors and staff. It had been routine to provide such reimbursement without any determination having been made of a valid government purpose for the expense or of conformity with government travel rules.

I regard these new Standards of Conduct, adopted unanimously by the Finance Board, as a necessary, but not final, step toward ensuring the Finance Board operates according to the highest ethical standards. At my direction, senior managers are preparing the first ever comprehensive training for Finance Board personnel on federal ethics law, including campaign restrictions, travel and entertainment regulations, and the practical, day-to-day application of the new Standards of Conduct. It is my intention that the Federal Housing Finance Board's relationship to its regulated entities be a model for federal regulatory bodies.

Again, thank you, Chairman Sarbanes, for the opportunity to respond to these important questions. I look forward to working with you, the members of your committee, and your staff in addressing how the Federal Housing Finance Board can effectively assist in ensuring the Federal Home Loan Bank System operates in the best interest of the American people.



# Federal Housing Finance Board

1777 F Street, N.W., Washington, D.C. 20006

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## FACSIMILE COVER

Date 10-18

TO: BRETT KAUNAUGH

Telephone \_\_\_\_\_ Fax Number \_\_\_\_\_

FROM: JOHN KORSMO

Telephone 408-2622 Fax Number \_\_\_\_\_

MESSAGE: ROUND 2! ANY ADVICE?

Number of Pages Sent (including cover) \_\_\_\_\_

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October 18, 2002

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BERNARD SANDERS, VERMONT,  
INDEPENDENT

The Honorable John T. Korsmo  
Chairman  
Federal Housing Finance Board  
1777 F Street, NW  
Washington, DC 20006

Dear Mr. Korsmo:

Thank you for your letter of October 11, 2002 and the copy of your responses to questions issued by the Senate Committee on Banking, Housing, and Urban Affairs about your participation in a fundraiser for Rick Clayburgh's congressional campaign.

While your responses provide helpful information about your involvement in Mr. Clayburgh's fundraiser, they fail to provide a complete answer as to whether you personally solicited campaign contributions in violation of federal law. For this reason, I would appreciate a direct answer to the following question: Did you personally solicit, accept, or receive a political contribution from another person at Mr. Clayburgh's fundraiser or at any time since your confirmation as a director of the Federal Housing Finance Board on November 29, 2001? If so, please provide an explanation.

I would appreciate an answer by October 25, 2002.

Sincerely,

Henry A. Waxman  
Ranking Minority Member

cc: The Honorable Paul S. Sarbanes

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# United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
 URBAN AFFAIRS

WASHINGTON, DC 20510-8075

October 18, 2002

The Honorable John Korsmo  
 Chairman  
 Federal Housing Finance Board  
 1777 F Street, N.W.  
 Washington, D.C. 20006

Dear Mr. Chairman:

Thank you for your prompt reply to my letter regarding your being listed as a special guest for a fundraiser for the Clayburgh for Congress campaign. As you know, that invitation was used to solicit executives of the Federal Home Loan Banks, institutions that you regulate. I have forwarded your return letter to the General Accounting Office (GAO) and the Inspector General (IG) of the Federal Housing Finance Board (FHFB) to assist them with their investigations.

Upon careful examination, the general answers contained in your October 11<sup>th</sup> letter did not answer a number of the questions I asked, as indicated below. I would appreciate your specific responses to these questions.

1. Did you or any member of the FHFB staff know or have any reason to believe that officials of any Home Loan Banks or its member institutions would be solicited using invitations on which your name appeared as a "special guest"?

Your initial response to this question indicates that you did not know who was invited to the event. You speculate that the whole reason for your being included on the invitation as a "special guest" to a Clayburgh fundraiser was your longstanding friendship with Mr. Clayburgh and his family. However, let me reiterate that the question also asks whether you or your staff had "any reason to believe that officials of any Home Loan Banks or its member institutions" would be solicited. I would appreciate a complete answer to my original question.

2. Did you or any member of the FHFB staff take any action to make sure that executives of Federal Home Loan Banks, or its member institutions, would not be at the fund-raiser prior to agreeing to have your name listed on the invitation?

In your response, you acknowledge that you made a mistake by not "affirmatively requesting . . . the Clayburgh campaign refrain from inviting Federal Home Loan Bank personnel." Your answer indicates that you consulted with two separate counsel regarding this matter. Did you or such counsel raise the topic of the Clayburgh campaign

using these invitations to solicit officials of Federal Home Loan Banks, or any member institutions, in either consultation? Did either attorney render written advice to you on this matter?

3. Do you agree that it is inappropriate, even if not illegal, for a financial regulator to allow his name to be used by a political campaign in an effort by that campaign to solicit funds from the regulated entities?

It appears from your letter you agree such conduct is inappropriate with respect to the Home Loan Banks themselves. Do you agree that your conduct with respect to Home Loan Bank members, who may have billions of dollars at stake in Home Loan Bank stock and advances, should be subject to the same standard?

4. Did you or any member of the FHFB staff make suggestions as to whom from the Home Loan Bank System, or its members, the Clayburgh for Congress committee should solicit? Did you or FHFB staff provide any contact information for Home Loan Bank executives or its members to the Clayburgh campaign or any of its representatives?

In your letter, you say that "[N]either I nor any member of the Finance Board staff made any suggestions to the Clayburgh campaign as to whom to invite to the event or provided any 'contact information' to the Clayburgh campaign or any of its representatives."

Other than the communications disclosed in your letter regarding Mr. Clayburgh contacting you, and you responding to him by agreeing to participate in the fundraiser, were there any other contacts made between any representative of the Clayburgh campaign and you or any member of the FHFB staff? Do you know how the Clayburgh campaign obtained the contact information for the Home Loan Bank executives?

5. Did you or any member of the FHFB staff solicit anyone's participation in the fundraiser, either as a sponsor or attendee?

You respond that you "have not personally solicited and never will solicit any Federal Home Loan Bank executive for contributions to any candidate. . . [N]o member of the Finance Board staff played any part in soliciting contributions for the October 1 Clayburgh event." However, the question asks more broadly about any solicitations by you or FHFB staff of anyone to be either a sponsor or attendee. I would appreciate a more complete answer to this question.

6. Have you or any member of the FHFB staff sponsored, attended or otherwise participated in any other political fundraisers since you were confirmed as Chairman? If so, were any officials of the Home Loan Banks or its members in attendance?

You provided no response to this question relating to your own activities in this regard. However, I did read in the October 15<sup>th</sup> edition of the American Banker that you attended a "benefit" for Norm Coleman. Is this report accurate? What was your role in

that event? Were any officials of the Home Loan Banks or its members in attendance at this event, or any other events you may have attended?

7. Have you or any member of the FHFB staff obtained records regarding the political contributions of Home Loan Bank executives?

Unfortunately, your letter included no response to this question, although you do claim that "knowledge of political contributions" does not influence your decisions. Your answer suggests that you might have obtained such information, but that you promise not to misuse such information. Again, let me reiterate, my question goes to whether you, or any member of the FHFB staff, have acquired, directly or indirectly, information regarding the political contributions of Home Loan Bank executives, officers, or employees. In addition, have you or any member of the FHFB staff acquired, directly or indirectly, information regarding the political contributions of executives, officers, or employees of Home Loan Bank member institutions?

Finally, I was struck by your complaint, as reported in numerous press stories, that you are somehow being judged – unfairly – according to an unwritten standard. Let me be clear, I seek only to hold you to the standard you and your legal counsel set out before the Board. Again, let me quote to you from the minutes of the September 12<sup>th</sup> meeting of the FHFB. At that meeting, you said:

"To represent the public interest, we must always carry out our regulatory responsibilities in a manner that is fair, objective, and impartial and *clearly so*."  
(Emphasis added.)

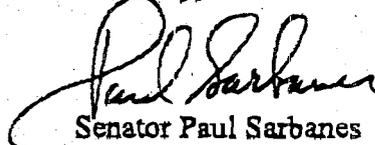
Moreover, the ethics counsel you hired on behalf of the FHFB added:

"... officials shall endeavor to avoid any actions creating the appearance of impropriety."

It is unfortunate that you appear to be backing away from this reasonable standard in your statements to the press.

Thank you for your consideration of these additional questions.

Sincerely,

  
Senator Paul Sarbanes  
Chairman