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**MEMORANDUM**

**TO:** The Commission  
**FROM:** Darryl R. Wold *DRW*  
Chairman  
**SUBJECT:** Revised Draft AO 1999-40  
**DATE:** March 15, 2000

**AGENDA ITEM**  
For Meeting of: 3-16-00

**SUBMITTED LATE**

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I have objected to the Revised Draft of AO 1999-40 (Agenda Document No. 00-35) because I believe the new language in footnote 13 on page 12 is unclear and in fact raises more questions than it answers. My specific concerns with the wording of the footnote are:

- 1) It is unclear what situations and relationships the footnote is intended to apply to. Although the first sentence refers to "the joint membership of two persons living in the same household," the second sentence is worded more broadly. There are at least two potential scenarios. The first is a joint membership where the authorization is only signed by one person. The second is a single membership where the authorization is signed by that person, but bills are sometimes paid by another person (such as a spouse). In both cases, the question comes when a bill (including a contribution) is paid by an individual who did not sign the authorization. My initial reaction is that in the limited circumstance presented by this AOR, when a contribution is paid as part of a bill (on the same check) or out of capital credits, the contribution should be deemed to be made by the person(s) who signed the authorization. The authorization would be considered "evidence to the contrary" for the purposes of 11 CFR 104.8(c) or a "separate writing." See 11 CFR 110.1(k)(1).
- 2) The second section begins by indicating that "the contribution will be construed as made by the person (or persons) who signed the pre-authorization," but then continues on to state that "there are certain conditions necessary to avoid contributions in the name of another," and then lists a string cite of the statute and regulations which for the most part indicate that the activity may be an impermissible contribution in the name of another person. This wording and sentence structure leaves the reader wondering if the contribution is 1) permissible, 2) permissible with certain conditions, or 3) impermissible.

I agree with the result of the Advisory Opinion, and I agreed with the thrust of the conversation at the Open Session of March 2, 2000 which lead to the addition of footnote 13. My hope is simply that the footnote can be re-worded to clear up the potential confusion I note above.