

ADVISORY OPINION 1975-102

The Effects of a Declaration of Bankruptcy by a Former Candidate upon Committee Debts and Reporting Obligations

The Federal Election Commission issues this advisory opinion under 2 U.S.C. §437f in response to a request submitted by Warren G. Uhler, Treasurer, Monahan for Congress Committee (Committee). The request was published in the Federal Register on November 12, 1975 (40 FR 52796). Interested parties were given an opportunity to submit comments relating to the request. No comments received.

The Monahan for Congress Committee has incurred debts of \$20,000. The majority of the debts incurred by the Committee are guaranteed by Mr. Monahan in the form of a personal note of obligation. Mr. Monahan also has personal liabilities of \$15,000 and is contemplating personal bankruptcy.

Based on informal communication with Mr. Monahan's campaign representatives and a review of the pertinent reports previously filed it appears that the \$15,000 personal obligation was incurred by Mr. Monahan for the purpose of defraying living expenses during his period of candidacy. Furthermore, the bulk of the \$20,000 committee debt is the result of a loan from Mr. Monahan to the Committee. This loan from personal funds was evidently the reason why Mr. Monahan had to incur personal debts. The opinion issues on the assumption that the foregoing representations conform to the underlying facts of these transactions.

The specific questions posed are as follows:

1. Once personal bankruptcy has been declared, what is the responsibility of the Committee for the bills, as they were personally guaranteed by Mr. Monahan?
2. How long a period of time does the Committee continue to exist, after it becomes obvious that it is impossible for the Committee to raise money to pay off the debt?

In answer to the first question concerning the effect of Mr. Monahan's bankruptcy on the Committee's obligations, including those "personally guaranteed" by Mr. Monahan, the Committee would regard as extinguished only those campaign-related debts and obligations that were identified as discharged by an adjudication of bankruptcy. Any debts and obligations not so discharged would continue in existence for purposes of the Federal Election Campaign Act of 1971, as amended, and pertinent provisions of Title 18, United States Code, including 18 U.S.C. §610. In general, debt claims and liabilities are subject to relevant State law, and the Committee's "responsibility" for satisfying the obligations would have to be determined with reference to those laws. The Committee's debts could, however, be settled or extinguished subject to compliance with the conditions set forth in AOs 1975-39 (40 FR 60162, December 31, 1975) and 1975-50

(40 FR 58392, December 16, 1975), which opinions are hereby determined to be applicable to this request.

In answer to your second question, the Committee must stay in existence and report periodically as required by 2 U.S.C. §§434(a) and (b)(12). Once its debts and obligations are properly extinguished, as discussed above, the Committee may disband and terminate in accordance with 2 U.S.C. §433(d). The Committee is referred to AO 1975-18 (40 FR 42838, September 16, 1975), as directly applicable on this issue.

This advisory opinion is issued on an interim basis only pending promulgation by the Commission of rules and regulations or policy statements of general applicability.