Re: AOR 1975-115

NOTE: The responsive document to AOR 1975-115 is an Opinion of Counsel, not an opinion issued by the Commission, and does not constitute an Advisory Opinion. It is included in this database for archival purposes and may not be relied upon by any person.

23 FEB 1976

AOR 1975-115 issued as
OC 1975-119

OC 1975-119

Thomas C. Kelleghan, Esq.
General Counsel
DuPage County Republican
Central Committee
115 W. Wesley Street
Wheaton, Illinois 60187

Dear Mr. Kelleghan:

This letter is in response to your request of November 24, 1975, on behalf of the DuPage County Republican Central Committee (hereinafter Central Committee). You asked the Commission for an advisory opinion with respect to the provisions of 18 U.S.C. §610.

The Supreme Court recently held in Buckley v. Valeo, 44 U.S.L.W. 4127 (S.C. January 30, 1976), that the Commission, as constituted, could not exercise statutory authority to issue advisory opinions. Although this part of the Court's judgment was stayed for 30 days, the Commission has decided not to issue further advisory opinions under 2 U.S.C. §437f during the stay period. Thus, this letter should be regarded as an opinion of counsel rather than an advisory opinion.

Your letter asks whether the Central Committee may accept corporate contributions (allowable under State law) in view of the fact that in 1974 it was granted waivers from the disclosure requirements of the Federal Election Campaign Act of 1971 by the Secretary of the Senate and the Clerk of the House. You indicate that such corporate contributions may ultimately be spent on behalf of or contributed to Federal candidates.

The 1971 Act provided that the Secretary of the Senate and the Clerk of the House could, "by published regulation of general applicability, relieve any category of political committees of the obligation to comply with section 304" (disclosure of receipts and expenditures) if such committee met two criteria: (1) it primarily supports persons seeking State or local office; (2) it does not operate in more than one State or on a statewide basis. P.L. 92-225, Sec. 306(c). These criteria of the 1971 Act were essentially retained in the 1974 amendments, 2 U.S.C. §436(b).

At the same time, 18 U.S.C. §610 makes it unlawful for any corporation to make a contribution or expenditure or for any candidate, political committee or other person to accept or receive such "in connection with" any Federal election. It is my opinion that the waiver provisions cited above merely suspend the reporting requirements of the Act, but in no way affect other election-related provisions of Federal law, such as 18 U.S.C. §610. Therefore, the Central Committee may not use corporate funds to make any "direct or indirect" contribution to or expenditure on behalf of Federal candidates.

If the Central Committee desires to accept corporate contributions to be used for State and local candidates, it may deposit them in a separate, segregated bank account and use them exclusively for State and local candidates, but not in connection with the election of Federal candidates. See AO 1975-59, 40 FR 53723 (November 19, 1975), a copy of which I enclose.

The foregoing constitutes an opinion of counsel which the Commission has noted without objection.

Sincerely yours,

Signed: John G. Murphy, Jr.
John G. Murphy, Jr.
General Counsel

Enclosure