

**Re: AOR 1975-130**

**NOTE: The responsive document to AOR 1975-130 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.**

AOR 1975-130 issued as  
OC 1975-128

March 12, 1976

OC 1975-128

Honorable James H. Scheuer  
House of Representatives  
Washington, D. C. 20515

Dear Mr. Scheuer:

This refers further to your request for an advisory opinion, our reference AOR 1975-130, on whether the fundraising cost for a campaign dinner would be subject to the expenditure limitations under 18 U.S.C. §608(c), if those attending make a contribution to your campaign committee and include a separate check, made out to the hotel, to cover his/her pro rata share of the dinner.

The Supreme Court recently held in Buckley v. Valeo, 44 U.S.L.W. 4127 (January 30, 1976), that the Commission as constituted could not be given statutory authority to issue advisory opinions. Although this part of the Court's judgment was stayed for 30 days and later continued for an additional 20 days, the Commission has determined that it will not issue further advisory opinions under 2 U.S.C. §437f during the stay period as extended. Thus, this letter should be regarded as an opinion of counsel, rather than an advisory opinion.

The Court also held, inter alia, that §608(c) of Title 18, United States Code, is unconstitutional, with the exception of §608(c)(1)(A) and (B) which still apply to presidential candidates receiving Federal funds. The effect of the Court's decision is that you may now make unlimited expenditures from funds contributed to your campaign.

You should note that the contribution limitations were upheld by the Court and remain in effect, as do the disclosure provisions of Title 2, United States Code. For this reason, I am of the opinion that under 2 U.S.C. §431(e) and §434(b) each individual's contribution should include, for reporting purposes, his/her pro rata share for the cost of the fundraising dinner. I am also of the opinion that each individual contributor's pro rata share for the cost of the

dinner, whether or not paid by check drawn to the order of the hotel, would count toward his/her contribution limitation under 18 U.S.C. §608(b)(1). See Advisory Opinions 1975-15 and 1975-62, copies of which I enclose.

The foregoing constitutes an opinion of counsel which the Commission has noted without objection; however, Commissioner Tiernan objects to issuance of any opinions of counsel during the stay period prescribed in Buckley, supra, and later extended.

Sincerely yours,

Signed: John G. Murphy, Jr.

John G. Murphy, Jr.  
General Counsel

Enclosures

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