

ADVISORY OPINION 1975-16

Interpretation of Principal Campaign Committee, Reporting Schedule, and Campaign Depository Provisions; Contributions From Incorporated Membership Organization

This advisory opinion is rendered under 2 U.S.C. 437f in response to a request submitted by Congressman John D. Dingell and published as AOR 1975-16 in the July 17, 1975, Federal Register (40 FR 30259). Interested parties were given an opportunity to submit written comments pertaining to the request.

The advisory opinion request submitted by Congressman Dingell raises several issues. Each issue is discussed separately in the following advisory opinion.

1. The first question raised by Congressman Dingell concerns the types of political committees a candidate may establish. Each candidate is required to designate a political committee to serve as his or her principal campaign committee. 2 U.S.C. 432(f). The candidate may authorize any number of political committees to solicit or receive contributions on behalf of the candidate or to make expenditures on behalf of the candidate. This authorization must be in writing and signed by the candidate. The expenditures made on behalf of the candidate by these authorized political committees are applied to the candidate's overall expenditure limitation.

These authorized committees file reports with the principal campaign committee for the candidate on whose behalf the contributions are accepted or the expenditures are made. The principal campaign committee is required to compile the reports of these authorized committees and file these reports, together with the report on its own activity, with the Commission. 2 U.S.C. 432(f)(2) and (3).

All political committees must remain in existence and report until all of their debts and obligations are extinguished. 2 U.S.C. 434(b)(12). The Commission may by future regulation prescribe ways in which continuous reporting of outstanding debts and obligations of campaign committees which have become and remained insolvent for long periods of time may be suspended or terminated. Since the committees authorized by the candidate report to that candidate's principal campaign committee, the candidate's principal campaign committee must remain in existence until all of its debts and obligations are extinguished and all of the debts and obligations of its authorized committees are extinguished or consolidated with the debts and obligations of the principal campaign committee.

2. The second question concerns the reporting requirements of committees which have registered with the Commission but which do not receive contributions or make expenditures in excess of \$1,000 during a particular calendar quarter. Generally, a committee is required to file a report of receipts and expenditures for each calendar quarter in which it received contributions in excess of \$1,000, or made expenditures in excess of \$1,000. 2 U.S.C. 434(a)(1)(C). The Commission is required to prepare and publish special reports listing those candidates for whom reports were filed as required

and those candidates for whom such reports were not filed as so required. 2 U.S.C. 438(a)(7). If a political committee has registered with the Commission and has previously filed quarterly reports, the Commission will not know, in the absence of other information, whether such a committee has a continuous reporting obligation. Therefore, at the close of the first calendar quarter in which the committee does not receive or expend \$1,000, the committee must notify the Commission that "no more than \$1,000 was received or expended" during that calendar quarter and that quarterly reports will be suspended until such time as the committee receives or expends \$1,000 during a calendar quarter. Upon receipt of this type of notification, the Commission will remove the committee from the list of committees required to file quarterly reports. The Commission is in the process of developing a short form for this purpose. This procedure will not affect the committee's obligation to file a pre-election report, 2 U.S.C. 434(a)(1)(A), or an end of the year report, 2 U.S.C. 434(a)(1)(B). If the committee determines that it has not received contributions or made expenditures during the calendar year in an aggregate amount exceeding \$1,000, the committee must so report to the Commission in the calendar year report, 2 U.S.C. 433(d). The Commission will, as noted in Part 1, promulgate regulations pertaining to reporting by committees with outstanding debts and obligations.

3. The third question concerns the time limit which is imposed between the receipt of a campaign contribution and the deposit of such a contribution in a campaign account. The Commission is currently in the process of proposing regulations which would establish such a time limit. Until such time as the regulations are prescribed, the Commission will require the contribution to be deposited within a reasonable time. The Commission considers five days after the receipt of the contribution by the treasurer or other designated official of the political committee to be a reasonable time limit in which to deposit the contribution.

4. The last question is whether a political committee is prohibited by 18 U.S.C. 610 from accepting a contribution from a VFW Post which is incorporated. Section 610 prohibits "any corporation whatever" from making a "contribution or expenditure in connection with any election" to Federal office and prohibits a candidate, political committee or person from accepting such a contribution.

The prohibitions in 610 apply, with limited exception, to contributions or expenditures by nonprofit corporations just as they apply to contributions or expenditures made by profit-making corporations. If a nonprofit organization is created expressly and exclusively to engage in political activities, however, and has incorporated for liability purposes only, the general prohibitions in 610 will not apply to that corporation. That type of corporation is essentially a political committee and may contribute its assets to Federal candidates the same as unincorporated political committees. Other types of nonprofit corporations are subject to the prohibitions in 610, and, therefore, a candidate or political committee is prohibited from accepting a contribution from these types of nonprofit corporations.

A corporation which is subject to the prohibitions in 610 may, however, establish a separate segregated fund and may make contributions and/or expenditures in connection with Federal elections from that fund. A candidate or political committee may, in turn, accept a contribution from the separate segregated fund of a corporation.

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.

Date: August 13, 1975

(signed) _____

Neil Staebler
Vice Chairman for the
Federal Election Commission