

## ADVISORY OPINION 1975-18

### Continuous Reporting of Campaign Debts

From 1972

This advisory opinion is rendered under 2 U.S.C. 437f in response to requests for advisory opinions submitted by James R. Sneider for the Illinois Muskie Campaign and Frank W. Wurzlow, Jr., for the Senator Ellender Campaign Committee, which were published together as AOR 1975-18 in the July 29, 1975, Federal Register (40 FR 31878). Interested parties were given an opportunity to submit written comments relating to the requests.

The requests generally ask the Commission, under the Federal Election Campaign Act of 1971, as amended (the Act), whether a political committee with outstanding debts from a past campaign may discontinue reporting to the Commission because it has ceased to receive contributions and make expenditures. Specifically, the following requests were made:

(a) James R. Sneider, attorney for the Muskie Illinois Campaign, states that there has been no activity in the Muskie Illinois Committee since 1973. He further states that the political committee has disbanded, that since 1973 the Committee has not received any contributions nor made any expenditures in an aggregate amount totaling more than \$1,000 and that the Committee does not expect to make any such expenditures nor receive any contributions. The Committee continues to owe \$166,432.75 from its 1972 campaign effort, and it has no funds to extinguish this debt nor does it contemplate the receipt of any contributions in the future. Mr. Sneider asks whether the Committee is still obligated to file reports, and if so, for how many years must reports be filed with the Commission in these circumstances; and

(b) Frank W. Wurzlow, Jr., treasurer for the Senator Ellender Campaign Committee states that the Committee was generally inactive during the immediate past reporting period and is now non-existent except for a lawsuit pending against the Committee. The lawsuit involves an outstanding claim by Innovative Data Systems of Louisiana for \$43,194.68 which is disputed by the Committee. Mr. Wurzlow states that this probably will be a long-drawn-out lawsuit and asks whether the Committee may discontinue reporting until the pending lawsuit is terminated. On the termination of the suit, Mr. Wurzlow states that the Committee will file a final report.

It generally is provided in 2 U.S.C. 434(b)(12) that the treasurer of a political committee shall file with the Commission a report which shall disclose "the amount and nature of debts and obligations owed by or to the Committee, in such form as the Commission may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the Commission may require until such debts and obligations are extinguished, together with a statement as to the circumstances and

conditions under which any such debt or obligation is extinguished and the consideration therefore..." Thus, debts and obligations which remain outstanding after an election shall be continuously reported in the manner and at the frequency that the Commission may prescribe.

It is provided in 2 U.S.C. 433(d) that a political committee which disbands or determines that it no longer will receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$1,000 shall notify the Commission. However, this subsection neither expressly nor impliedly provides that on such notification the Commission automatically will permit a political committee to cease reporting. More specifically, neither the express language of the subsection nor the applicable legislative history indicates that Congress intended when enacting this provision to allow a political committee, which has an outstanding campaign debt, the power to decide for itself whether to discontinue reporting either indefinitely or permanently. To allow a political committee such power would be an invitation to commit fraud; since once the committee decided on its own to cease reporting, it would have the opportunity to privately convert some of its creditors to contributors by declining to pay certain debts, even though direct contributions from such creditors might violate Title 18, United States Code. Thus the only reasonable interpretation of this subsection is that it allows a political committee to notify the Commission whenever it desires to disband or indefinitely cease reporting, but reserves to the Commission the discretionary authority to provide for such a termination or discontinuation of reporting. Application of this view may be seen in 2 U.S.C. 436(b) in which it is provided that the Commission may by rule of general applicability, which is published in the Federal Register not less than 30 days before its effective date, relieve: (1) any category of candidates from the obligation to comply personally with the reporting requirements; and (2) any category of political committees from the reporting requirements if the committees primarily support persons seeking State or local office, and "do not operate in more than one State or do not operate on a statewide basis."

The Commission's power to relieve a political committee from an obligation to continuously report debts and obligations because of special circumstances, is found in 2 U.S.C. 436(c) which provides that "[t]he Commission shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported." It is further provided in 2 U.S.C. 434(b)(12) that outstanding debts shall be reported until extinguished at such periods as may be prescribed by the Commission, thereby allowing the Commission the discretion to develop flexible reporting periods for debts. The Commission thus has been granted by Congress the power to develop regulations to govern reporting by political committees, and also the corresponding power to propose regulations pursuant to 2 U.S.C. 438(c) which will relieve for a definite or indefinite period and sound policy reasons, certain categories of political committees from the obligation to report. However, inasmuch as the commission only has the power to relieve a category of political committees from the obligation to report through a regulation of general applicability, such relief cannot be afforded a single political committee or even a

category of political committees through an advisory opinion since it would be neither generally applicable nor subject to review by the Senate or House of Representatives.

Accordingly, it is the opinion of the Commission that:

(a) a political committee which is indebted from its 1972 campaign effort, has no funds to extinguish the debt, and does not contemplate receiving any contributions in the future, is generally required to file quarterly and yearly reports with the Commission until issuance of regulations of general applicability which would relieve the committee of its reporting obligations;

(b) a political committee which is inactive except for a pending lawsuit is generally required to file quarterly and yearly rep with the Commission until such time as regulations of general applicability have been issued which would relieve the committee of its reporting obligations.

However, if either political committee receives contributions of less than \$1,000 or makes expenditures of less than \$1,000 in a calendar quarter as provided in 2 U.S.C. 434(a)(1)(C), then the political committee is not required to file a detailed report for that quarter and need only file such explanation for its failure to file as may be prescribed by the Commission.

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

This advisory opinion is to be construed as limited to the facts of the request and should not be relied on as having any precedential significance except as it relates to those facts at the time of its issuance.

Date: September 10, 1975

(signed) \_\_\_\_\_  
Thomas B. Curtis  
Chairman for the  
Federal Election Commission