

Advisory Opinion 1975-21

Corporate Contributions to Political Committees Supporting State and Federal Candidates

This is an advisory opinion in response to a request from the Republican Central Committee of San Diego County (hereinafter Central Committee). This request was published in the Federal Register on July 29, 1975, at 40 FR 31877. Interested parties were given an opportunity to submit written comments relating to the request and six comment letters were received.

The request indicates that the Central Committee has established a separate account for corporate contributions, permitted under State law, and that funds from this account "are used only for State candidates, not Federal . . ." The funds in this account will hereafter be referred to as restricted; funds in other accounts will be referred to as unrestricted. The first question presented is whether restricted funds may be used for administrative expenses (office rent, utilities, secretarial salaries, office supplies, etc.) of the Central Committee which contributes to and makes expenditure on behalf of Federal, State and local candidates.

18 U.S.C. §610 provides that it is unlawful for any corporation or labor organization to make a contribution or expenditure in connection with any Federal Election. "Contribution or expenditure" is defined in section 610 to include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . to any candidate, campaign committee or political party or organization, in connection with any election to any of the offices referred in this section" Further, section 610 provides that it is unlawful for any political committee or other person (as defined in 18 U.S.C. §591(g) to accept or receive any such prohibited contributions.

Since §610 prohibits the making and receiving of corporate contributions in connection with any election to Federal office and since the Central Committee's operations are directly related, at least in part, to Federal candidates, the Commission concludes that an allocable portion of the administrative expenses must be paid from unrestricted funds.

Political parties perform numerous functions not directly related to any particular candidate or election. However, since some of these functions have an indirect effect on particular elections, and since monies contributed to fulfill these functions free other monies to be used for contributions or expenditures in connection with Federal elections, it is appropriate to ascribe a certain portion of the administrative functions of a party organization to Federal elections during time periods in which Federal elections are held.

This allocable "Federal portion" of the administrative expenses is determined by the ratio of (1) the total amount which the Central Committee directly contributes to and expends on behalf of Federal candidates, to (2) the total of all direct contributions to and expenditures on behalf of all candidates - Federal, State, and local. For example, if the total of direct contributions to and expenditures for all candidates in one reporting period is \$10,000 and the amount going directly to or for Federal candidate purposes is \$1,500 then 15 per cent of the administrative expenses during such period must be paid from unrestricted funds. The allocation should be made only on each annual report filed with the Commission.

If the Central Committee elects to establish a separate Federal candidate's committee then that committee must comply with Federal law and could not receive or expend restricted funds. The Commission notes its authority to audit the Central Committee to determine that the allocable Federal share of administrative expenses is based upon the formula set forth above and to assure that there has been no commingling of restricted and unrestricted funds.

The second issue is whether the Central Committee may use corporate contributions to finance a Republican registration drive.

As discussed above a corporate contribution permitted under State law may be made to and received by the Central Committee if it is placed in the restricted funds account. A voter registration drive has a relation to Federal elections as well as State and local. Therefore, corporate contributions may be made and received for that purpose only to the extent that the drive relates to State and local candidates. That extent may be determined on the basis of the allocation formula described above and applied on an annual basis. For example, if the Central Committee makes \$100,000 in direct contributions to and expenditures on behalf of all candidates in a given year and \$15,000 relating directly to Federal candidates in such year, then 15 per cent of the expenses of a voter registration drive conducted in that year would have to be paid from unrestricted funds.

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