

ADVISORY OPINION 1975-28

Status and Activities Allowed of a Political Committee Supporting a Former Candidate for the Presidency

This advisory opinion is issued pursuant to 2 U.S.C. § 437f in response to a request by the Percy Committee, and published as AOR 1975-28 in the August 20, 1975, Federal Register (40 FR 36532). Interested parties were given an opportunity to submit written comments pertaining to the request. No comments were received.

In response to a number of requests and initiatives by friends and supporters of Senator Charles H. Percy of Illinois the Percy Committee (Committee) was established on February 9, 1973, to explore his possible candidacy for the Office of President. The Committee represents that the contributions received and expenditures made by it have been reported in accordance with the Federal Election Campaign Act of 1971. Apart from a final bill from the Committee's accountants, which has not yet been rendered, the Committee states that it is not aware of any outstanding obligations or anticipated contributions related to a possible presidential candidacy by Senator Percy in 1976. The Committee has approximately \$9,000 of funds on hand, but is not and will not be soliciting additional contributions or making additional expenditures (with the exception of the bill referred to above) to pursue a possible presidential candidacy by Senator Percy in 1976. The Committee further indicates that Senator Percy is not and does not expect to be a presidential candidate for 1976.

The Percy Committee has requested an advisory opinion on several matters.

1. Will the Percy Committee cease to be a "political committee" established on behalf of a potential presidential candidate once the last expenditure related to a possible presidential candidacy has been made (which is expected to be the payment to the Percy Committee's accountant referred to above)?

The Committee must, of course, extinguish all debts and obligations relating to the possible presidential candidacy of Senator Percy before it may cease to be a political committee established on behalf of a potential presidential candidate. 2 U.S.C. § 434. Since the Committee is or will be making ongoing expenditures relating to Senator Percy's other political activities, it should clearly indicate which expenditures are made to extinguish debts relating to the potential presidential candidacy. By clearly indicating the purpose of the expenditures, the Committee will prevent any confusion as to whether the expenditure should be charged against Senator Percy's senatorial expenditure limitation in 18 U.S.C. § 608(c). The Commission notes that the Committee has recently filed an amended registration statement indicating that they do not intend to support a presidential candidate.

2. Since Senator Percy is expected to engage in political activity from time to time in Illinois and is also expected to seek reelection in 1978 and certain political expenses related to these activities can be expected in such regard from time to time, are the receipts and expenditures of and for the Percy Committee required to be recorded and reported in accordance with the law?

The Commission is currently in the process of preparing regulations regarding the allocation of expenditures incurred by an officeholder or candidate appearing on behalf of other candidates within his or her electoral district. These expenditures, as so allocated, as well as expenditures made with respect to the Senator's candidacy for reelection, will of course be charged against his expenditure limitation in 18 U.S.C. § 608(c) and must be recorded and reported in accordance with 2 U.S.C. § 431 et seq. It is to be noted that contributions to and expenditure made from funds established exclusively for the purposes of supporting the activity of a Federal officeholder are currently the subject of a draft Commission regulation, with respect to which there will be further public notice.

3. May the Percy Committee engage in general political fundraising and make expenditures related to Senator Percy's political activities as well as his expected reelection campaign?

As indicated, the Committee may engage in such activities but must continue to report all receipts and expenditures. Furthermore, any contribution received and expenditure made after January 1, 1975, is subject to limitation under 18 U.S.C. § 608.

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.