

ADVISORY OPINION 1975-57

Application of Limits to Post-election Contributions to Single Candidate Committee

This advisory opinion is rendered pursuant to 2 U.S.C. §437f. The request was published on September 3, 1975, in the Federal Register, 40 F.R. 40679. Written comments were invited for a period of ten days. No comments were received.

The request was submitted by the treasurer of the John L. Grady Campaign Fund (hereinafter Grady Committee). Mr. Grady was a candidate for the U.S. Senate in 1974.

The first question raised is whether there is any time limitation on the acceptance of contributions subsequent to an election. Upon further inquiry, the Commission determined that the contributions would be solicited and expended solely to liquidate campaign debts from the 1974 election. The second question posed is whether it is permissible to accept funds raised from testimonials, dinners, etc. to liquidate past campaign debts if such events are held subsequent to an election. Funds raised for the above purpose through testimonials, dinners, etc. are contributions as defined in 2 U.S.C. §431(e).

Advisory Opinion 1975-6, the Policy Statement of the Commission and Interim Guideline published in the Federal Register on July 25, 1975 (40 F.R. 31316), and August 5, 1975 (40 F.R. 32950 and 32952) respectively, detail the position of the Commission regarding the retirement of 1974 campaign debts. These three publications set out specifically the requirements a candidate or his campaign committee must meet in order to use contributions for liquidating past debts. The Commission refers the Grady Committee to these publications in answer to its first two questions.

The last issue is whether funds raised after the election may be used to repay the candidate for loans made by him to his campaign fund. A candidate may be repaid for loans made by him to his campaign out of funds raised after the election. If any loans were made by the candidate after January 1, 1975, with respect to his 1974 Senate campaign, then the loan or advance must be evidenced by a written instrument fully disclosing the terms and conditions of such loan or advance. 18 U.S.C. §608(a)(3). The Federal Election Campaign Act of 1971 limited to \$35,000 the amount a candidate for Senate could expend from his or her own funds or those of his or her immediate family in connection with a Senate campaign. No change was made in this limitation in the 1974 Amendments. A loan is an "expenditure" as defined in 18 U.S.C. §591(f). Therefore, the outstanding loan(s) by a candidate (or his or her immediate family) to his or her campaign may not exceed \$35,000 at any time during the campaign.

The John L. Grady Campaign may repay the candidate for loans or advances made to it before January 1, 1975, even though such loan or advance is not evidenced by a writing. Any loan made by a candidate (or his or her immediate family) on or after January 1, 1975, may only be repaid if it is evidenced by a writing. A loan or advance is

computed in arriving at the total expenditure "only to the extent of the balance of such loan or advance outstanding and unpaid." 18 U.S.C. 608(a)(4). While the candidate for Senate may lend his campaign more than \$35,000 aggregated during an election, at no time shall the outstanding balance, plus other expenditures from "immediate family" funds, exceed \$35,000.

The statute makes no distinction for purposes of campaign debts and obligations between those debts owed the candidate and those owed to other persons. The Commission is of the opinion that both types of debts may be retired from contributions solicited specifically for that purpose (and received on or before December 31, 1975) subsequent to the election.

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.