

ADVISORY OPINION 1975-68

Use of and Reporting of Funds Received After 1/1/75 to Retire 1974 Campaign Debts Without Specific Authorization of Contributors

This advisory opinion is rendered under 2 U.S.C. §437f in response to a request for an advisory opinion submitted by Mr. Donald R. Charles, Jr., for Congressman Hughes, which was published as Advisory Opinion 1975-68 in the September 22, 1975, Federal Register (40 FR 43664). Interested parties were given an opportunity to submit written comments relating to the request. No comments were received.

The question raised in Congressman Hughes' request is whether a fund-raising dinner held on May 22, 1975, to retire a 1974 campaign deficit is subject to the Commission's written authorization requirements for retiring a past campaign deficit. A second question raised is whether the contributions and expenditures made in connection with the fund-raising dinner are subject to the limits in 18 U.S.C. §608(b) and (c).

The Commission has previously issued Advisory Opinions 1975-5 and 1975-6 (40 FR 31316, July 25, 1975), an Interim Guideline on the Reporting of Debts and Obligations (40 FR 32950, August 5, 1975) and a Policy Statement on Pre-1975 Campaign Debts (40 FR 32952, August 5, 1975). These publications point out generally that the limits in 18 U.S.C. §608 do not apply to contributions and expenditures to defray a past campaign deficit with regard to an election held prior to January 1, 1975.

The Commission is of the view that since the Act does not clearly specify that a contribution made solely to defray a pre-1975 campaign deficit should be accompanied by a written statement from the contributor restricting its use, then such guideline should be applied only prospectively. Therefore, contributions received prior to the Commission's August 5, 1975, Interim Guideline on pre-1975 campaign deficits and actually used to retire a pre-1975 deficit need not have been accompanied by a writing. In addition, contributions and expenditures made with regard to the May 22, 1975, fundraising dinner to reduce the 1974 campaign deficit, are not subject to the limitations in 18 U.S.C. §§ 608(b) and (c).

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.