

ADVISORY OPINION 1975-97

Volunteered Services of Entertainer for Campaign Fund-raiser; Attribution of Entertainer's Travel Expenses

This advisory opinion is rendered under 2 U.S.C. §437f in response to a request for an advisory opinion submitted by the Udall '76 Committee and published in the November 4, 1975, Federal Register (40 FR 51358). Interested parties were given an opportunity to submit written comments pertaining to the request. No comments were received.

The Udall '76 Committee indicates that it anticipates holding a fund-raising event, whose major attraction would be the performance of a "well-known" entertainer. Accordingly, it inquires:

1. whether the entertainer's time and talent can be volunteered on behalf of a candidate without attribution of the value of his services to the \$1,000 limitation of 18 U.S.C. §608(b)(1) for contributions to any candidate with respect to any election;
2. whether, if the value of the entertainer's performance is not an attributable contribution, his out-of-pocket expenses for travel and subsistence will be applied to his §608(b) contribution ceiling and to the candidate's §608(c) expenditure ceiling;
3. whether, if the committee reimburses the entertainer's out-of-pocket expenses, this amount, and the cost of the hall, will be deducted from the full price of a ticket to the fund-raiser in determining the amount of a contribution by any person who purchases a ticket.

Under 18 U.S.C. §591(e)(5)(A), the term "contribution" does not include "the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee."* Accordingly, an entertainer's time and services, if donated without the payment of compensation by or on behalf of the Udall "76 Committee, will not be a "contribution" for purposes of the limits in §608(b).

Out-of-pocket travel and subsistence expenses, if not reimbursed, will be counted against the entertainer's individual contribution limitation to the extent that the cumulative value of these expenses exceeds \$500. 18 U.S.C. §591(e)(5) exempts from the definition of contribution "any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate . . . to the extent that the cumulative value of activities by any person on behalf of any candidate

* The legislative history of this provision fails to make any distinction between the volunteer services of different individuals, for example a clerk-typist and a well-known professional entertainer, notwithstanding the vast disparity in the dollar value of the services provided by different persons.

. . . does not exceed \$500 with respect to any election." Any additional expense for travel and subsistence is considered a "contribution," however, and will be attributed to the §608(b) limits.

If, however, the committee reimburses the entertainer for travel and subsistence costs or pays them directly, the full amount is a campaign expenditure by the Committee. As the primary purpose of these expenditures is to secure the entertainer's performances at a fund-raising function, they are "costs incurred by a candidate in connection with the solicitation of contributions by such candidate." Under 18 U.S.C. §591(f)(4)(H), such costs are excluded from the candidate's expenditure limitations in any election subject to a maximum exclusion of 20 percent of the spending limit. Unless the committee treats the entertainer's expenses in this manner, and reports them as fund-raising costs, the full value of the expenses will be counted against the candidate's campaign expenditure ceiling in the primary. 18 U.S.C. §608(c)(1)(A).

Finally, the Commission has already determined that the price of a ticket to a fund-raising event will be considered a contribution attributable to the limits of 18 U.S.C. §608(b) in the full amount paid. [See Advisory Opinion 1975-62, Federal Register, 40 FR 52795]. The committee need keep an identification record of the contribution only when the contributor spends a total of more than \$10 for the ticket or tickets [2 U.S.C. §432(b)]. The committee is under no obligation to report the contributor's full name and mailing address (including occupation and principal place of business, if any) until the contributor has given more than \$100, whether through ticket purchases or otherwise [2 U.S.C. §434(b)(2)]. The total amount of proceeds from the sale of tickets to a fund-raising event must be reported. [2 U.S.C. §434(b)(6)(A)].

This opinion does not reach any conclusions with respect to Presidential matching funds and the eligibility of ticket purchases for matching. The Commission has previously published proposed regulations and interim guidelines on Presidential matching.

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.

Date: November 21, 1975

(signed) _____
Neil Staebler
Vice Chairman for the
Federal Election Commission