

9 JUL 1976

AO 1976-6

Honorable Howard H. Baker, Jr.
United States Senate
Washington, D. C. 20510

Dear Senator Baker:

This letter responds to your request for an opinion of counsel or an advisory opinion dated March 11, 1976. You inquired whether any provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), requires that you make restitution of certain corporate funds contributed to your campaign in 1972. You also inquired whether it would be lawful to return an amount (equal to the 1972 contribution) from the funds of your present principal campaign committee.

The Commission concludes that it is without authority to render an opinion as to the existence of a legal obligation to return the corporate funds in question. Under 2 U.S.C. §437f, the Commission's advisory opinion authority is confined to the issuance of advisory opinions "concerning the application of a general rule of law stated in the Act . . . to a specific factual situation." Since the 1971 Act, as amended, is silent as to any obligation to repay illegal contributions which were made more than three years prior to the date upon which the contribution was drawn to the Commission's attention, there is no "general rule of law stated in the Act" which the Commission can apply to the factual situation you describe.

Your second inquiry, however, involves the use of current campaign funds, a matter within the Commission's jurisdiction. The Act does not, in the Commission's view, prevent your expenditure of current campaign funds to refund an amount equal to the corporate contribution received with respect to a past election. Generally it is within your discretion to determine how to spend sums contributed to you. The Act merely requires you to report those expenditures in accordance with its provisions.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act to the specific factual situation set forth in your request. See 2 U.S.C. §437f.

Sincerely yours,

(signed)
Vernon W. Thomson
Chairman, for the
Federal Election Commission