2 SEP 1976

Re: AOR 1976-11

Steven I. Platt, Esquire
Counsel for the Democratic State
Central Committee of Maryland
6192 Oxon Hill Road
The Law Building, Suite 500
Oxon Hill, Maryland 20021

Dear Mr. Platt:

This is in response to your letters of January 19 and June 10, 1976, requesting an advisory opinion regarding the application of the expenditure limitations of the Federal Election Campaign Act of 1971, as amended (the "Act") to the State and local Democratic central committees of Maryland.

As you know, the Supreme Court held in Buckley v. Valeo, 424 U.S. 1 (1976), that the Commission as then constituted lacked the power to issue advisory opinions. From the date of that decision on January 30 until reconstitution on May 21, 1976, no advisory opinions could be issued. Moreover, since May 21 the Commission has been required to give priority to the consideration of proposed regulations which must be submitted to Congress under 2 U.S.C. §438(c). We apologize for the unavoidable delay in responding to your request.

You specifically requested guidance on whether the local Democratic central committees of Maryland are to be considered independent for the purposes of the limitations on party expenditures provided in 18 U.S.C. §608(f) and applied in AO 1975-2, Part 2, 40 FR 36092 (August 18, 1975). As a result of the Federal Election Campaign Act Amendments of 1976, this section was transferred to 2 U.S.C. §441a(d) and in turn, the Commission has approved §110.7(c) of the proposed regulations in order to implement these statutory provisions. (Copies of these sections of the Act and proposed regulations are enclosed.) The effect of §110.7(c) is to clearly establish that for purposes of the expenditure limitations of 2 U.S.C. §441a(d) a State committee includes all subordinate political committees. Accordingly, all of the local Democratic central committees of Maryland are conclusively presumed to be subordinate to and governed by the common limitations of the State Democratic Central Committee.

It should be noted that §110.7(e) does provide several options to the State Central Committee in the treatment of these common expenditure limits. The State Central Committee is allowed to: (a) assume the primary administrative and disclosure responsibility for insuring compliance with the limitations; (b) allocate the expenditure limitations among the subordinate committees and provide for the Committees to file

directly with the Commission; or (c) use any other method which has been submitted and approved by the Commission. These options are set forth in detail in §110.7(c).

In addition to the party spending allowed under 2 U.S.C. §441a(d), the Commission has recognized that party committees at the State, county, city, or congressional district level may wish to undertake spending that furthers the election of that party's candidates for President and Vice President as well as other party nominees. Such spending, not in excess of $1,000 per committee is permitted under §110.7(b)(5) of the proposed regulations and does not count against the limits of 2 U.S.C. §441a(d). Enclosed for your information is a copy of the Commission's response to a recent inquiry concerning the application of §110.7(b)(5).

While your inquiry was solely concerned with the application of the expenditure limitations to a political party, for your information a copy of §110.3(b)(2)(ii) of the proposed regulations is also enclosed. This provision establishes a rebuttable presumption with regard to whether a contribution from a county or other local unit of a party committee is to be counted toward the contribution limitations of the State committee. The pertinent language is:

> (ii) [a]ll contributions made by the political committees established, financed, maintained, or controlled by a state party committee and by subordinate state party committees shall be presumed to be made by one political committee. This presumption shall not apply if
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> (A) the political committee of the party unit in question has not received funds from any other political committee established, financed, maintained, or controlled by any party unit; and
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> (B) the political committee of the party unit in question does not make its contributions in cooperation, consultation or concert with or at the request or suggestion of any other party unit or political committee established, financed, maintained or controlled by another party unit.

This response relates to your opinion request but may be regarded as informational only and not as an advisory opinion since it is based in part on proposed regulations of the Commission which are subject to Congressional review. It is provided by 2 U.S.C. §438(c) that these proposed regulations may be prescribed in final form by the Commission only if not disapproved either by the House or the Senate within thirty legislative days from the date of receipt. The Commission submitted its proposed regulations to the Congress on August 3, 1976. It is the Commission’s view that no

enforcement or compliance action should be initiated in this matter if the actions of the political committee which you represent conform to the conclusions and views stated in this letter.

Sincerely yours,

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

Enclosures