

October 6, 1976

RE: AOR 1976-72

David E. Brown
Treasurer & Vice Chairman
Illinois Republican
State Central Committee
Kemper Plaza
Long Grove, Illinois 60049

Dear Mr. Brown:

This is in response to your letter of August 13, 1976, in which you request an advisory opinion on behalf of the Illinois Republican State Central Committee as to the method of allocating general party overhead and operating expenditures between Federal and non-Federal activities. The types of expenses you refer to are for "rent, utilities, office supplies, salaries, etc., and for general campaign activities like registration drives and precinct training courses."

You state that there are 188 separate races in Illinois this year, 25 (not including Vice President) of which are for Federal office, five for statewide office, and 158 for State legislative offices. You ask whether a ratio of 25/188, or 15%/85%, would be a proper allocation between Federal and non-Federal candidates.

It is the opinion of the Commission that in the specific situation you describe, a reasonable allocation of Federal to non-Federal expenditures would be 1/3 to 2/3. This reflects the view that the Federal offices should be given proportionately more weight, and not be equated on a one-to-one basis with, for example, State legislative offices. This formula may be applied in every year.

Among the general party expenses you describe, however, are registration drives. Section 441b of Title 2, United States Code, permits the use of corporate and union treasury funds only for "non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families;" (see §114.1(a)(2)(ii) of the Commission's proposed regulations, copy enclosed). The only exceptions to this general rule are contained in §114.4(d) which allows corporations and labor organizations to support a nonpartisan voter registration drive if:

- (i) the corporation or labor organization jointly sponsors the drives with a civic or other nonprofit organization which does not support or endorse candidates

or political parties and if the activities are conducted by the other organization; and

(ii) These services are made available without regard to the voter's political preference.

(2) A corporation or labor organization may donate funds to be used for nonpartisan registration and get-out-the-vote drives to civic and other nonprofit organizations which do not endorse candidates or political parties.

Thus, even though the Illinois law apparently permits corporate contributions for State elections, corporate/union treasury funds may not be used to fund any portion of a registration or get-out-the-vote drive conducted by a political party.

You state that you have two accounts; one is "restricted" and contains, among others, corporate contributions; the other is "unrestricted" and contains personal and partnership checks, presumably not in excess of the contribution limitations of 2 U.S.C. §441a. You state that "[a]lmost all expenses to date have been paid from unrestricted funds," and you ask how funds from the restricted account can be transferred to the unrestricted account to reimburse it for disbursements made for non-Federal candidates and general overhead expenses.

Section 102.6(b) of the proposed regulations provides in relevant part that committees supporting Federal candidates "may not receive transfers from an account or committee established by a State committee . . . except from a committee or account" receiving only contributions permissible under the Federal Election Campaign Act of 1971, as amended ("the Act").

Therefore, you may not transfer funds from your "restricted" account to your "unrestricted" account, since the "restricted" account contains funds which may not be properly contributed under the Act, see 2 U.S.C. §441b. There is no limitation, however, on funds being transferred from the "unrestricted" to the "restricted" account. You may, therefore, draw a check on each account reflecting the allocation for a particular overhead expense, or you may transfer funds from the "unrestricted" to the "restricted" account, and draw one check on the "restricted" account for the total expenditure.

Notwithstanding the foregoing conclusion, and in view of the transition that will be necessary to conform your committee organization to the requirements of §102.6 the Commission will allow a one-time adjustment of the described expenses allocable to your Federal activities based on the foregoing formula. In other words, at the time (before the close of the next reporting period) you determine the allocable Federal share of the described overhead and general campaign expenses incurred since January 1, 1976, that amount may be reimbursed to the Federal committee from the "restricted" account if the past practice of the State committee would have been to pay only the allocable Federal

share from the "unrestricted" account. In the future the "restricted" account must become the State committee, assuming you select the alternative set forth in §102.6(a)(2)(i) which is the only lawful structure by which the State committee may continue to receive corporate funds if the State party desires to continue to benefit Federal candidates through its general party activity.

It should be further noted that §102.6 establishes two permissible organizational structures for political committees: a committee receiving contributions designated for, and contributing to, Federal candidates; or a committee receiving contributions designated for, and making contributions to, both Federal and State candidates. In both cases, the committee may not receive any funds unlawful under the Act, such as funds from a corporate or labor organization treasury, or contributions in excess of the limits in 2 U.S.C. §441a, see also Part 110 of the proposed regulations. Unless it establishes a separate committee for State and local candidates, the Illinois Republican State Central Committee may not receive corporate contributions as described in your letter.

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 must be submitted to Congress. The proposed regulations may be prescribed in final form by the Commission only if not disapproved either by the House or the Senate within 30 legislative days from the date received by them. 2 U.S.C. §438(c). The proposed regulations were submitted to Congress on August 3, 1976.

Sincerely yours,

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

Enclosure