



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 6, 1976

Re: AOR 1976-82

Mr. Glenn Miller
Campaign Manager
Walgren/Congress
1848 Greentree Road
Pittsburgh, Pennsylvania 15220

Dear Mr. Miller:

This is in response to your letter dated September 1, 1976, in which you request the Commission's opinion of the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the following facts.

Your campaign committee is apparently printing a campaign brochure which will feature a picture of Mr. Walgren with Governor Carter, the Democratic Party's nominee for President. You state that the brochure will be produced and paid for in full by the Walgren for Congress Committee and that the Jimmy Carter presidential campaign committee (and, the Commission assumes, none of its agents) is not responsible in any way for producing or paying for this brochure. You ask whether the Walgren committee is required to put a disclaimer in the text of the brochure stating that the Carter campaign was not financially involved in its production.

The commission is of the opinion that the Walgren for Congress Committee may, under the circumstances set forth in your letter, purchase and distribute the described brochures without the cost counting as a contribution to or an expenditure by the Carter campaign. As a general rule payment of expenses for your campaign brochure which includes the Carter photo would be construed as a contribution in-kind to the Carter campaign. Because Governor Carter has accepted public financing, such an expense (contribution in-kind), unless paid for out of the public funds received, would be illegal. Of course a contribution in-kind would not arise if the expense was paid by the national committee of a political party under 2 U.S.C. §441a(d)(2) or by a party committee under §110.7(b)(5) of the Commission's proposed regulations, as published in the Federal Register on August 25, 1976 (copy enclosed).

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With respect to your question regarding the required disclaimer, the words "Paid for by Walgren for Congress. Not authorized by Jimmy Carter" would be appropriate.

This response relates to your opinion request but may be regarded as informational only.

Sincerely yours,

(signed)
Vernon W. Thomson
Chairman for the

Enclosure [8/25/76 FR reprint]