



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 1, 1976

AO 1976-85

Mr. Gary G. Crook, Chairman  
Newt Gingrich for Congress  
340 International Blvd.  
Room 209  
Hapeville, Georgia 30354

Dear Mr. Crook:

This is in response to your letter of September 9, 1976, requesting an advisory opinion as to the application of the Federal Election campaign Act of 1971, as amended ("the Act"), to the reporting of campaign debts. According to your letter and a phone conversation on September 21, 1976, with a representative of the Newt Gingrich for Congress Committee, Mr. Michael Hall, the Committee has made and reported certain payments to a vendor pursuant to an oral agreement. A bill for further services has been received, and the Committee contends it is not liable for payment of this latest claim. Your specific question is whether the amount in dispute must be reported as a campaign debt.

The reporting provisions of the Act require that reports filed with the Commission include "...the amount and nature of debts and obligations owed by or to the Committee" (2 U.S.C. §434(b)(12)), and according to the Commission's proposed regulations, this includes any "... promises to make contributions or expenditures." (§104.2(b)(11), 41 FR 35942, August 25, 1976). Since the Act defines expenditure to include "... a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure" (2 U.S.C. §431(f)(2)), the disputed claim in your situation would be covered by the reporting requirements.

If required to report the disputed amount as a debt, you express concern that the report may be construed as a written admission of liability should the matter go to litigation. While the Commission is not in a position to advise you on the effect of a court's admitting into evidence a report filed under the Act, we note that the reporting of the "debt" accompanied by a caveat that the amount is contested or disputed would be acceptable under the Act. Such a report could be amended at a time when the "debt" was settled or adjudicated.

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