



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 15, 1976

Re: AOR 1976-88

Honorable James W. Symington
House of Representatives
Washington, D.C. 20515

Dear Mr. Symington:

This is in response to your letter of September 16, 1976, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"). You ask whether donations may be made to a defeated candidate, who no longer holds Federal office, in excess of those permitted under the law and regulations to be made to an active candidate.

Under 2 U.S.C. §441a(a)(1)(A) and §110.1(a)(1) of the Commission's proposed regulations (copy enclosed), a person is prohibited from making contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. Under 2 U.S.C. §441a(a)(2)(A) and §110.2(a)(1) of the proposed regulations, a multicandidate political committee is prohibited from making contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000. Under 2 U.S.C. §431(e)(1)(A) and §100.4(a)(1) of the proposed regulations, the term "contribution" is defined as a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing the nomination for election, or election, of any person to Federal office.

The Commission has taken the position in the proposed regulations, submitted to Congress on August 3, 1976, that contributions made to retire debts resulting from elections held after December 31, 1974, are subject to the limitations contained in 2 U.S.C. §441a and §110 of the proposed regulations. See §110.1(g)(2) of the proposed regulations. Thus, in your situation, contributions made at any time to retire your 1976 campaign debt and whether made payable to you or your committee would be attributed to the 1976 election and charged against the limits applicable thereto.

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. These proposed regulations were formally adopted by the Commission and serve as interpretative rules of the Commission as to the meaning of the pertinent statutory language. The proposed rules were transmitted to the Congress on August 3, 1976. See 2 U.S.C. §438(c). For your information I enclose a copy of a recent Commission policy statement regarding those rules.

Sincerely yours,

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

Enclosure [8/25/76 Federal Register reprint]