



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 4, 1976

Re: AOR 1976-97

Honorable Elizabeth Holtzman
House of Representatives
Washington, D.C. 20515

Dear Ms. Holtzman:

This is in response to your letter of October 20, 1976, requesting an advisory opinion regarding the contribution limitations for primaries under the Federal Election Campaign Act of 1971, as amended ("the Act").

You inform us that under the New York Election Law, an individual seeking to become a candidate for party nomination must file a petition bearing a requisite number of voter signatures. This year you were the only Democrat in your congressional district to file a timely petition. Therefore, in accordance with New York law, you became your party's nominee without having your name placed on the primary ballot. You inquire as to the application of the contribution limitations of the Act in such a situation. Specifically, your question is whether a person who contributed to your principal campaign committee before the primary date may contribute up to his full contribution limit with respect to the general election.

As you are aware, a person may contribute \$1,000 (or \$5,000 if a multicandidate committee) to you and your authorized committees (including your principal campaign committee) "with respect to any election." 2 U.S.C. §441a(a)(1) and (2). The procedure by which you became your party's nominee constitutes a primary election, subject to a separate contribution limitation. See §100.6(b)(1) of the Commission's proposed regulations (copy enclosed). September 14, 1976, the date on which the primary would have been held had you been opposed is deemed to be the date of the primary for purposes of the limitations. §110.1(j)(3). Any contributions made to your campaign on or before that date are deemed to be made with respect to the primary and are applied against that limitation. See §110.1(a)(2). A person who has thus contributed with respect to the primary may contribute an additional \$1,000 (or \$5,000 if a multicandidate committee) with respect to your general election campaign. Contributions made after September 14 and before November 2 (or after November 2 if made for the purpose of

retiring debts incurred by your 1976 campaign) will be deemed to be made with respect to your 1976 general election campaign.

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

Enclosures [8/25/76 FR reprint and 10/5/76 policy statement]