



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 23, 1977

AO 1977-4

Honorable Richard T. Schulze
House of Representatives
Washington, D. C. 20515

Dear Mr. Schulze:

This letter is in response to your request of January 31, 1977, for an advisory opinion concerning the legality, under the Federal Election Campaign Act of 1971, as amended ("the Act"), of a proposed donation of 250 medals by a medalic firm to a Federal officeholder.

You state you are preparing a program of recognizing outstanding graduating seniors of high schools within your district, and "individuals who perform outstanding acts beneficial to their fellow man." You propose awarding to these individuals a medal, with the wording: "Congressman's Medal of Merit (or Valor) presented by Congressman Richard T. Schulze." The Franklin Mint, a corporation within your district, has offered to donate to you an initial order of 250 medals, with a value of approximately \$1,900, "as a public service," and you ask whether such a donation would be permissible under the Act.

The Commission concludes that if you are not a candidate for Federal office, and if the medals are neither intended for use nor actually used in connection with any Federal election campaign, the donation to you by the Franklin Mint of 250 medals for the purpose described would not violate the Act.

As you are aware, it is unlawful for a corporation to make a "contribution or expenditure in connection with any [Federal] election," 2 U.S.C. 441b(a). For purposes of 441b, "contribution or expenditure" includes "anything of value to any candidate . . . in connection with, any election to any [Federal] office 441b(b)(2).¹ In this regard, a "candidate" is defined by the Act as an individual who seeks nomination for election, or election to Federal office, and an individual is deemed to seek nomination or election if he has "received contributions or made expenditures, or has given his consent for any person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office." 2 U.S.C. 431(b). The Commission is of the opinion that the donation described in your

¹ You should note this specific definition is broader than the general definitions contained in 2 U.S.C. 431(e) and (f), which define as a "contribution" or "expenditure" anything of value given "for the purpose of influencing" a Federal candidate's nomination or election.

request would not without additional activity, make you a candidate within the meaning of the Act. The Commission is not, however, aware of the totality of activities which might be engaged in by you or on your behalf and can express no opinion as to your candidate status.

If you are a "candidate" for any 1978 election within the meaning of 431(b), or if the medals are used in connection with a future Federal election campaign, the proposed gift of medals by the Franklin Mint would be an "in-kind contribution"² "in connection with" a Federal election in violation of 2 U.S.C. 441b.

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

² 100.4(a)(1)(iii) of the Commission's proposed regulations provides that the amount of a contribution of a thing of value is the difference between the usual and normal charge for the goods at the time of the contribution and the amount that was charged.