



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

February 22, 1977

AO 1977-5

Honorable Bennett Johnston  
Chairman, Democratic Senatorial Campaign Committee  
Honorable Bob Packwood  
Chairman, Republican Senatorial Campaign Committee  
United States Senate  
Washington, D. C. 20510

Dear Senators Johnston and Packwood:

This is in response to your letter of January 27, 1977, requesting an advisory opinion as to the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to funds which are donated to and expended by a political committee to defray legal and accounting fees for the purpose of ensuring compliance with the Act.

You pose three separate questions relating to 2 U.S.C. 431(e)(4) and (f)(4)(J). These provisions exempt from the Act's definitions of "contribution" and "expenditure" payment for the following services:

. . . legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but the amounts paid or incurred for such legal or accounting services shall be reported under section 434(b).

Your first question is whether these exemptions permit a candidate's principal campaign committee to establish a separate fund for the purpose of defraying the above-described legal and accounting fees. The answer is yes. A candidate's principal campaign committee may establish a separate fund for defraying legal and accounting services rendered to ensure compliance with the Act or chapters 95 or 96 of the Internal Revenue Code. (These chapters set out the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act.) Of course, disbursements from the fund, as you note, are required to be reported by the committee.

Secondly, you ask whether individuals may donate to such a fund without regard to the Act's contribution limitations. The answer is no. Individuals (as well as political committees) are limited as to amounts which may be contributed to such a fund. The exemption from the contribution limits only applies in the situation where the "regular employer" of the individual rendering legal and accounting services solely to ensure compliance with the Act (or chapter 95 or 96 of the Internal Revenue Code) donates the time of that individual to a candidate or political committee.<sup>1</sup> Absent this exemption, the payment of compensation for services rendered to a candidate or political committee would be a contribution in-kind from the payor and thus subject to limit under 2 U.S.C. 441a. The exemption from contribution limits does not apply where any person including a political committee contributes funds to a candidate or another political committee for the purpose of defraying costs of legal and accounting services; such a contribution is subject to applicable prohibitions in 2 U.S.C. 441b, limits in 2 U.S.C. 441a(a), and disclosure under 2 U.S.C. 434.<sup>2</sup>

Thirdly, you inquire whether such a fund may be established by a group of persons which is not a political committee. The answer is no. The exemptions apply only to a "candidate or political committee." Only candidates or groups constituted as political committees (see the definition in 2 U.S.C. 431(d) and the registration requirement in 2 U.S.C. 433(a)) can take advantage of the exemptions and thus use a separate fund such as you suggest.

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

Enclosure

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<sup>1</sup> Although exempt from limitation, the amounts paid or incurred by the regular employer are required to be reported under 2 U.S.C. 434, see also 104.3 of the proposed regulations relating to receipt and consumption on in-kind contributions.

<sup>2</sup> This position is stated in regard to general election donations to presidential candidates accepting public funds in 140.13(b)(3) of the Commission's proposed regulations. See also 114.1(a)(2)(vii) of the proposed regulations relating to 2 U.S.C. 441b