



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

April 12, 1977

AO 1977-9

Dorothy Glancy  
Assistant Professor of Law  
University of Santa Clara  
Santa Clara, California 95053

Dear Ms. Glancy:

This is in response to your letters of December 3, 1976, and February 18, 1977, requesting guidance and an advisory opinion concerning separation of Federal and non-Federal funds by the Santa Clara County Democratic Central Committee ("SCDC").

According to your letter, the SCDC was unaware of the requirement, mandated by the Federal Election Campaign Act of 1971, as amended ("the Act"), that a party committee (at a State or local level) supporting both Federal and non-Federal candidates choose one of two alternatives to satisfy the disclosure requirements, limitations, prohibitions, and other provisions of the Act. See 102.6 of the Commission's regulations. You state that \$1,567 in "earmarked federal funds" were deposited in the SCDC's general State and local bank account (which contains funds from sources not permitted to make contributions under the Act). On October 11, 1976, these funds, according to your letter, were transferred to a separate bank account (opened October 4) of the Santa Clara County Democratic Central Committee--Federal Funds Committee ("FFC"). Reports filed by the FFC indicate that the \$1,567 was received in late August (1976) as a transfer from the principal campaign committees of two House candidates and the Federal political committee of the State Democratic party. Furthermore, at present there is additional "federal money" in the general State and local account of the SCDC: \$1,410 (deposited on October 29, 1976) "in checks from a clearly and exclusively federal campaign fundraiser." Your letter of February 18 explains that the \$1,410 was received from individuals in amounts of approximately \$10 each in connection with a cocktail party fundraiser on October 24, 1976. Guests to the event were informed "that the proceeds were to be used in promoting the election of Democratic candidates for Federal office;" a transfer of this \$1,410 to the FFC is necessary, you state, in order to pay obligations incurred by the FFC.

Your questions are whether any further action is necessary with respect to the \$1,567 of Federal funds previously transferred on October 11, and whether \$1,410 of Federal funds on deposit in the SCDC's State and local account may be transferred to the FFC.

As you are aware, the Act limits the amount of contributions to Federal candidates and political committees and prohibits contributions to Federal candidates and committees from certain entities who may be allowed to contribute to State and local candidates under State law. 2 U.S.C. 441a, 441b, and 441c. Therefore, the Commission sought to provide a method for segregating permissible and impermissible Federal political contributions by prescribing a regulation which allows political groups (including party organizations) active in Federal elections, as well as State and local elections, to limit the extent to which the funding of their State and local activity would be subject to the Act--see 102.6 as published in the Federal Register on August 25, 1976.

With regard to the \$1,567, it is provided in 102.6 that a separate Federal campaign committee may receive transfers from another "political committee." Since the reports indicate that the source of the \$1,567 was other political committees (as defined under the Act), that amount may be retained by the FFC. See also 104.10 of the regulations.

The \$1,410 was raised on the basis that it would be used to promote the election of Federal candidates within the county. Thus, it was required to be deposited in an account of a depository designated under 2 U.S.C. 437b(a)(2). However, in view of the fact that the \$1,410 was erroneously deposited in the wrong account, the amount may now be transferred to the account of the FFC if, as your letter states, the \$1,410 represents contributions received as a result of a solicitation expressly stating that they would be used for Federal elections. See 102.6(b) of the regulations; compare also 103.3(b)(2) which recognizes circumstances under which contributions of questionable legality may be deposited in a committee account pending a determination of their legality.

In reaching the foregoing conclusion the Commission assumes: (1) that records of the names and addresses of donors contributing in excess of \$50 were retained for the FFC as required by the Act (see 2 U.S.C. 432(c) and 102.9 of the regulations), and (2) that there is compliance with the mandatory reporting requirements for donors contributing in excess of \$100 in a calendar year. See 2 U.S.C. 434(b) and 104.2 of the regulations (copy enclosed).

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, 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