



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 15, 1977

AO 1977-12

Mr. Donald D. Meyer
Route 1
Labadie, Missouri 63055

Dear Mr. Meyer:

This responds to your letter of March 10, 1977, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to your proposed use, as a Federal candidate, of office facilities for both business and campaign-related activities.

You state that you are an "essentially self-employed" branch manager of a commodities brokerage firm based in Chicago, which pays you the minimum wage* plus commissions; you own the building in which your office is located, and pay for all expenses incurred in operating the office. You state that you have filed as a candidate for election to Congress in 1978 in Missouri's 8th District, and your questions are: (1) whether you may continue to use your office telephone number for your campaign number; and (2) whether you may continue to use your office for your campaign activities.

The Commission answers both of your questions in the affirmative: the Act does not prohibit a candidate's use of a place of business which he or she personally owns for campaign purposes. However, in order to assure that campaign reports required by the Act accurately reflect all "expenditures . . . made for the purpose of influencing" your nomination or election, see 2 U.S.C. 431(f), a reasonable allocation should be made of office expenses incurred in connection with your campaign and those incurred to pursue your business. The portion of expenses attributable to your campaign would be "expenditures," which should be included in reports of receipts and expenditures filed at intervals specified by the Act, either by you, or if you obtain a waiver of personal reporting (see 2 U.S.C. 436(b) and 101.3 of the regulations), by your principal campaign committee. 2 U.S.C. 434; see also Part 104 of the Commission's regulations.

* The Commission notes that the facts you present involve the payment by your corporate employer of a base salary while you are a Federal candidate. See by analogy 100.4(a)(5) of the Commission's regulations and AO 1976-70 (copies enclosed), concerning the circumstances under which employer compensation to a campaign volunteer is not considered a contribution."

The campaign's allocation of office telephone costs would be a proportionate share of the monthly base charge, plus any long distance toll charges incurred as a result of your campaign. A reasonable method of determining what portion of your general office overhead expenses should be allocated to your campaign would be to apply the percentage of time spent in campaign-related activities from your office (in relation to the total amount of time spent for business and campaign purposes) to your total office overhead expenses. The product should be reported as campaign "expenditures." In addition to overhead expenses such as telephone and utilities, general office overhead expenses would also include the fair market rental value of the office space utilized since you are providing something of value--facilities and equipment--to your campaign. See 100.4(a)(1)(iii) of the regulations; compare 100.4(b)(3).

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

Enclosures