



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 5, 1977

AO 1977-15

Roger H. Kimmel, Counsel
Caputo for Congress Committee
540 Madison Avenue
New York, New York 10022

Dear Mr. Kimmel:

This refers to your letter of March 28, 1977, requesting an advisory opinion on behalf of the Caputo for Congress Committee ("the Committee") concerning application of the contribution limits in 2 U.S.C. 441a to contributions made by Mr. Caputo's brother and father to his campaign.

The facts as related in your letter are:

On January 21, 1976, the candidate's brother contributed \$2,000 to the Committee's primary election account. On January 28, 1976, the candidate's father contributed \$2,000 to the Committee's primary election account. . . . Neither the candidate's brother nor father has made any additional contributions to the Committee's primary or general election accounts.

You ask for an opinion as to whether the candidate's father and brother may each contribute \$1,000 to the primary account of the Committee (to the extent of existing indebtedness) and/or to the Committee's general election account (to the extent of existing indebtedness).

The Commission concludes that the described contributions may be made in the circumstances presented by your request. This conclusion is reflected in the Commission's Advisory Opinion 1976-26 wherein a member of a candidate's immediate family contributed a total of \$5,000 to the related candidate before May 11, 1976 (the effective date of the 1976 Amendments to the Federal Election Campaign Act of 1971, as amended): \$3,500 before January 30, 1976, the date of the Supreme Court's decision in Buckley v. Valeo, 424 U.S. 1 (1976), and \$2,000 on March 12, 1976. The \$2,000 contribution was not regarded as in excess of the limits; however, the contributor was regarded as having "used-up" his contribution limits under 2 U.S.C. 441a(a)(1)(A). He was therefore prohibited from making additional contributions to the same candidate with respect to any 1976 election.

In this case you state that the contributions were made before the date of the Buckley decision; therefore, they are neither required to be returned nor regarded as "using-up" the contributor's \$1,000 limit under 2 U.S.C. 441a(a)(1)(A). It is clear, of course, that all contributions made by Mr. Caputo's brother and father with respect to a 1976 election are subject to the \$25,000 aggregate annual limit whenever those contributions are made. 2 U.S.C. 441a(a)(3).

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