



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 29, 1977

AO 1977-16

Mr. Robert Eaton
Iowa 1980 U.S. Senate Campaign Committee
Post Office Box 117
West Des Moines, Iowa 50265

Dear Mr. Eaton:

This refers to your advisory opinion request of April 4, 1977, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the proposed activities of the Iowa 1980 U.S. Senate Campaign Committee ("the Committee"), which has registered with the Commission as a political committee.

Your request indicates that the Committee intends to function initially as a search committee "for the purpose of selecting the best Republican candidate" for the 1980 Senate election in Iowa. At the time the candidate is selected in 1979, you anticipate that the Committee would become the candidate's principal campaign committee. You state that in searching for a candidate the Committee will raise money, conduct surveys, identify campaign workers, pay expenses, build a campaign organization, and eventually select the 1980 Republican Senate candidate it wishes to support. You further state that the campaign organization and contributions received by the Committee will "accrue fully to the candidate" upon his or her selection. During the search phase of the Committee's activities it will receive contributions and regard itself as subject to the same limits of the Act which apply to a candidate and his or her principal campaign committee. Furthermore, the Committee will keep records and report pursuant to 2 U.S.C. 432 and 434. When a 1980 Senate candidate is selected by the Committee, all contributions previously received by the Committee will be reviewed; refunds will be made in any case where a contributor has exceeded the relevant limits of 2 U.S.C. 441a because of contributions made to or on behalf of the selected candidate before his or her selection by the Committee.

You request an opinion as to whether the Committee may be operated as a principal campaign committee without a candidate for the initial period of its existence and subsequently become a principal campaign committee when a candidate is selected. Furthermore, you ask whether the contributions accumulated before the Committee selects its candidate may, upon

selection, be retroactively regarded as contributions to the candidate without applying the contribution limits "to the total transfer of funds raised for the candidate."¹

The Commission concludes that the Committee may be established and operate as a "political committee" under the Act and subject to the contribution limits which generally apply to political committees. See 2 U.S.C. 441a(a)(1)(C) and 441a(a)(2)(C); also see 2 U.S.C. 441a(a)(3). Furthermore, if desired, the Committee may operate under the contribution limits applicable to contributions which are made to a principal campaign committee.

In stating the above conclusion the Commission recognizes that principal campaign committees come into legal existence under the Act only when designated as such by a candidate for Federal office. See 2 U.S.C. 431(n), 432(e). However, the Commission does not find any legal basis for barring a political committee from operating under a self-imposed restriction on the amount of contributions it will accept which restriction coincides with the limits applicable to contributions to a candidate or principal campaign committee (or other authorized committee) of a candidate. In the event the Committee operates under the contribution limits applicable to the authorized campaign committee(s) of the candidate eventually selected, it may be retroactively designated by the selected candidate as his or her principal campaign committee; also, the accumulated contributions would not be regarded as a separate contribution from the Committee to the selected candidate who designates the Committee as his or her principal campaign committee. The foregoing discussion is subject to the following conditions which are made a part of this opinion.

At the time the Committee selects a candidate who then authorizes the Committee as his or her principal campaign committee, all previous payments received and made are retroactively regarded as contributions accepted and expenditures made by the Committee as principal campaign committee of the selected candidate. When the selected candidate authorizes the Committee as his or her campaign committee all contributions previously received by the Committee, as well as those received by or on behalf of (includes those received by any agent or other person having the consent of the selected candidate) the selected candidate before selection, must be reviewed to determine whether persons making those contributions may have exhausted their relevant limits under 2 U.S.C. 441a.² Refunds must be promptly made to all persons who, as a result of this review, are determined to have made excessive contributions on behalf of the candidate selected by the Committee.

Of course, at the time of candidate selection, the Committee's Statement of Organization must be amended; also, the candidate must file a statement of candidacy and a statement authorizing the Committee as his or her principal campaign committee. See 2 U.S.C. 432 and 433 and Parts 101 and 102 of the regulations.

¹ We note that an actual transfer of funds is not anticipated. Rather, by designating the Committee as his or her principal campaign committee, the selected candidate will assume constructive control over the funds and they will be combined with any contributions which were received by or on behalf of the candidate before his or her selection by the Committee.

² Contributions to a candidate before selection, and those made to the Committee, are to be aggregated by donor to determine compliance with the limits of 2 U.S.C. 441a.

The Commission expressly declines to state any opinion on the permissible uses of funds collected by the Committee, and application of the contribution limits to those funds, in the event the Committee fails to select a candidate or the selected candidate declines to authorize the Committee as his or her principal campaign committee. If these contingencies arise the Committee should submit another advisory opinion request setting forth the specific factual situation existing at that time.

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)

Joan D. Aikens

Vice Chairman for the

Federal Election Commission