



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 28, 1977

AO 1977-41

Mr. Samuel H. Young
Young for Congress Committee-1976
9701 North Kenton
Skokie, Illinois 60076

Dear Mr. Young:

This letter responds to your request of September 2, 1977, for an opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use of "surplus campaign funds received before the general election on November 2, 1976."

You state that you were a candidate in a primary for a special Congressional election held on October 5, 1969. In this 1969 primary, your principal campaign committee, the Young for Congress Committee, incurred a deficit of \$15,000 which was paid by borrowing \$15,000 from a bank. This \$15,000 note was personally signed by you in order to obtain the loan from the bank. Your letter further states that you were a Congressional candidate in 1976 and that your principal campaign committee, "Young for Congress Committee-1976," may have campaign funds in excess of amounts needed to meet 1976 campaign expenditures. Reports filed by your 1976 Committee subsequent to the general election disclose cash-on-hand in excess of outstanding debts.

You ask for an opinion as to whether campaign funds received before the general election of November 2, 1976, by the 1976 Committee may be used to retire a portion, or all, of the \$15,000 debt from the 1969 Congressional campaign.

The Act provides that Federal candidates may use "amounts received as contributions that are in excess of any amount necessary to defray [their] expenditures" in various ways-- supporting their activities as Federal officeholders (if applicable), contributing to charity, or "any other lawful purpose." 2 U.S.C. 439a. The Commission's regulations define the term "excess campaign funds," and allow the candidate to determine that contributions received are in excess of any amount necessary to defray campaign expenditures. 11 CFR 113.1(e). Section 113.2 describes various purposes for which excess campaign funds may be expended, but is not exhaustive as to those purposes which are lawful.

In the absence of any applicable State or Federal law outside the jurisdiction of the Commission which would make this use unlawful, it is the opinion of the Commission that expending excess campaign funds received before the 1976 general election to retire, in whole or in part, your \$15,000 debt from the 1969 special Congressional primary campaign constitutes a use of funds for a "lawful purpose" under 2 U.S.C. 439a and 113.2(c) of the regulations.

The Commission notes that payments made for this purpose by the Young for Congress Committee-1976 should be fully disclosed in any quarterly or annual report subsequently filed by the Committee (2 U.S.C. 434) or in the Committee's notice of termination and final report (see 102.4 of the Commission's regulations).

The Commission expresses no opinion as to the Federal tax ramifications of the described transactions since those issues are within the jurisdiction of the Internal Revenue Service rather than the Federal Election Commission.

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)
Thomas E. Harris
Chairman
Federal Election Commission