



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 8, 1978

AO 1977-52

Mr. Blane Osterman
Dyas in '78 Committee
1515 South Eight Street
Lincoln, Nebraska 68502

Dear Mr. Osterman:

This refers to your letter of September 30, 1977, requesting an advisory opinion on behalf of the campaign committees of Mr. Hess Dyas concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to two past campaign debts.

Your letter states that Mr. Dyas was an unsuccessful candidate for the House of Representatives in 1974. The principal campaign committee in this race, the Dyas for Congress Committee ("1974 Committee") incurred substantial campaign debts of which approximately \$3,500 remains outstanding. Your letter further states that Mr. Dyas was an unsuccessful primary candidate for the Senate in 1976. The Senate Committee was known as either the Dyas Committee or the Dyas for Nebraska Committee ("1976 Committee"). The 1976 Committee also incurred a substantial debt of which approximately \$15,000 remains outstanding. You state further that Mr. Dyas is a candidate for the House of Representatives in 1978.

In your letter, you raise several interpretative questions regarding the Act. Your first three questions specifically are:

- (1) Can the two losing efforts -- '74 and '76 -- be combined and assumed by the 1978 Congressional Committee?
- (2) If the answer to #1 is no, can they be combined but kept separate from the '78 committee?
- (3) If no to #2 can the 1978 Congressional committee assume the 1974 Congressional debt of \$3,500, leaving the '76 Senate debts separate, since both '74 and '78 races are for the same office?

Under the Act and the Commission regulations, a political committee is a continuous organization until specific action is taken to terminate the registration of the committee. See

2 U.S.C. 433(d) and 11 CFR 102.4. A political committee may terminate under the Commission's regulations if the committee has no outstanding debts or obligations. See again 11 CFR 102.4. It is the opinion of the Commission that the 1974 Committee and the 1976 Committee may transfer their debts and obligations to the 1978 Committee. The 1974 and 1976 Committees may then terminate under the cited regulations. The reporting obligations for the 1974 Committee and the 1976 Committee would then end, and further reporting would be made by the 1978 Committee. See 2 U.S.C. 434 and 11 CFR 104; see also Advisory Opinion 1977-24, copy enclosed. The Commission notes that itemized contribution schedules (Schedule A) separately identifying the contributions for the 1974 debt, the 1976 debt, and the 1978 campaign would need to be filed by the 1978 Committee. In addition, the 1978 Committee will need to file separate debt schedules (Schedule C) identifying the 1974 and 1976 debts.

Your fourth question is: If the committees must be kept separate can the '78 committee also use the title "Dyas for Congress", the same title the '74 Congressional Committee had, or must it be a different title?

It is the opinion of the Commission that the 1978 Committee may use the same title used by the 1974 Committee.

Your fifth question is: If the committees can be combined are there any special efforts necessary to let contributors know that at least part of their contribution may be used to pay 1974 and 1976 obligations?

It is provided in 11 CFR 110.1(g)(1) that:

Contributions made to retire debts resulting from elections held prior to January 1, 1975 are not subject to the limitations of this Part 110, as long as contributions and solicitations to retire those debts are clearly designated and used for that purpose.

Therefore, contributors must not only be informed that their contribution will be used to retire pre-1975 debts, but they also must expressly earmark their contribution (as by notation on a check) for that purpose. Contributions made to retire 1976 campaign debts must be designated for that purpose and are subject to the 1976 limits under 2 U.S.C. 441a and Part 110 of the regulations. See 11 CFR 110.1(g)(2). Persons may only make contributions designated to retire the 1976 debt to the extent they have not previously "used up" their 441a limits with respect to the Senate primary election in 1976.

Your sixth question is: If the committees are kept separate, and some 1974 and 1976 debt remains following the 1978 general election (assuming Dyas wins the primary) in which the 1978 committee has a surplus of money, can that surplus be applied to the 1974 and 1976 debts?

The Commission must decline to state an opinion at this time on this question since it is hypothetical. See 11 CFR 112.1(b). If the described contingencies arise, the Committee may submit another advisory opinion request setting forth the specific factual situation existing at that

time. A recent advisory opinion (AO 1977-41, copy enclosed) relates to the use of excess funds from a 1976 election campaign to retire a campaign debt from a 1969 election.

Your seventh question is: Since there was no limit in 1974 on the amount an individual could contribute to a candidate's 1974 campaign are we subject to any individual contributor limits at this time as we are for the 1976 debt?

The answer is no as long as contributions and solicitations to retire the 1974 debts are clearly designated and used for that purpose. See again, 11 CFR 110.1(g)(1).

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 for the
Federal Election Commission

Enclosures