



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 14, 1978

AO 1977-63

Linda C. Hendrix
District Assistant to Honorable Paul G. Rogers
701 Clematis Street
Suite 321
West Palm Beach, Florida 33401

Dear Ms. Hendrix:

This refers to your letter of November 19, 1977, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended, to the use of certain excess campaign funds from a 1968 account.

Your letter states that \$1,871.55 remains in an account from the 1968 campaign of Congressional Rogers. This amount represents left over contributions from the 1968 congressional campaign which had been returned by check to the original donors who then failed to cash the checks.

In a telephone response by Mr. Daniel Mica to a letter dated December 16, 1977, from the Commission's General Counsel, the Commission learned that Mr. Rogers may wish to use this excess amount in his campaign for re-election in 1978. The Commission's regulations provide in 110.3(a)(2)(iv) that a candidate may transfer funds between a previous campaign committee and his or her currently registered principal campaign committee or other authorized committee, so long as none of the funds transferred contain contributions which would be in violation of the Act. See 2 U.S.C. 441b, 441c and 441e; also see Advisory Opinion 1977-24, copy enclosed. If these 1968 funds (assuming they are from lawful sources) are carried over into a 1978 campaign they would need to be included in the "cash on hand" of Mr. Roger's principal campaign committee. In addition, any individual contributor of more than \$100 of the excess would need to be fully identified on a separate Schedule A designated as relating to the 1968 surplus. These individuals would not be treated as making a contribution for purposes of the limits in 2 U.S.C. 441a but would need to be identified for disclosure purposes. 11 CFR 104.10 (This disclosure is necessary since the contributions were not originally disclosed pursuant to the 1971 Act, effective April 7, 1972.)

The excess 1968 campaign funds may also be used for other purposes. It is provided in 2 U.S.C. 439a that:

Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, . . . may be used by such candidate . . . to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office, may be contributed by him to any organization described in Section 170(c) of Title 26 of the U.S. Code, or may be used for any other lawful purpose."

See also 11 CFR 113.2.

The Commission may express no opinion regarding possible application of Rules of the House of Representatives to use of these funds since interpretation of those rules is not within its jurisdiction.

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 U.S.C. 437f.

Sincerely yours,

(signed)

Thomas E. Harris

Chairman for the

Federal Election Commission

Enclosures