



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 30, 1978

AO 1978-15

Lance H. Olson, Esq.
Olson & Connelly
926 J Building, Suite 810
Sacramento, California 95814

Dear Mr. Olson:

This refers to your letter of February 27, 1978, requesting an advisory opinion on behalf of Mr. Vic Fazio, a congressional candidate for the 4th Congressional District in California, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to his participation in a fundraising campaign for the Sacramento unit of the American Cancer Society.

Your letter explains that before he decided, to become a Federal candidate, Mr. Fazio agreed to serve as the Honorary Chairman of the 1978 fundraising drive for the Sacramento unit of the American Cancer Society which is part of the California Division of the American Cancer Society, a non-profit, tax exempt organization incorporated under the laws of California. You explain that in his capacity as Honorary Chairman, Mr. Fazio:

will attend one luncheon, a press conference announcing the "April Crusade", and a wine tasting event. In addition Mr. Fazio will author a letter which will appear, along with his picture, in a brochure published by the Sacramento Unit. This brochure will be mailed or delivered to approximately 40,000 persons in the Sacramento metropolitan area including persons who reside within the 4th Congressional District. Mr. Fazio's letter will endorse the work of the American Cancer Society and encourage persons to take advantage of services provided by the Society and lend financial and volunteer assistance. The brochure will specify community services, list the seven warning signs of cancer, solicit funds and volunteers, and indicate how the Society expends its resources. Mr. Fazio will be identified as a State Assemblyman in his letter. However, no reference will be made to his candidacy for Federal office.

The questions presented by Mr. Fazio are whether the publicity resulting from the described functions and brochure mailing would constitute a contribution under the Act and if so whether Mr. Fazio's involvement in the fundraising drive for the American Cancer Society would be prohibited since the California Division is incorporated.

Although it is possible that Mr. Fazio's involvement in the fundraising activity of the American Cancer Society may indirectly benefit his Federal candidacy, the Commission concludes that in the circumstances you have described, the major purpose of the activity is not the nomination or election of a candidate. See the definitions of "contribution" and "expenditure" in 2 U.S.C. 431(e) and (f). Significantly, Mr. Fazio agreed to participate in the charitable fundraising before he became a Federal candidate, and he presumably will not control or have any role in deciding the distribution to be made of brochures and letters bearing his picture and name. The foregoing conclusion is also based on your representation that no reference will be made in the endorsement letter and brochure to the fact that Mr. Fazio is a candidate for Federal office. Furthermore, the Commission conditions this opinion on an assumption that the other activities of the charity "crusade" (luncheon, press conference, wine tasting event) will not involve (i) the solicitation, making, or acceptance of contributions to Mr. Fazio's campaign for Federal office, and (ii) any communication directed to persons attending any of the described events which expressly advocates Mr. Fazio's nomination or election to Federal office or the defeat of any other candidate for Federal office. See Advisory Opinions 1978-4 and 1977-54, copies enclosed.

This response constitutes an advisory opinion concerning 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