



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

November 20, 1978

AO 1978-56

Mr. Marion Edwyn Harrison  
Suite 500  
1701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Dear Mr. Harrison:

This responds to your letter of August 4, 1978, requesting an advisory opinion on behalf of the Crane for President Committee concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations to Congressman Philip Crane's position as National Chairman of the American Conservative Union ("ACU") while he is an announced candidate for President of the United States.

Your letter states that "ACU is a nonprofit, voluntary, presently unincorporated association of American citizens who adhere to the principles set forth in its Constitution and ByLaws." Article Two says that one objective or purpose of ACU is providing "aid and information" to maintain a "vigorous" two party political system. The National Chairman, is elected by the Board of Directors for a 2 year term. Presently Mr. Crane holds that position which will expire in January, 1979. However, there is no prohibition against reelection. You explain that ACU sponsors and/or participates in television and radio programs, institutes, seminars, symposia and other forums for discussion and debate. ACU disseminates a periodical publication and other types of publications. ACU sponsors films addressing contemporary questions. The National Chairman writes an editorial and/or educational column in the periodical and some other publications identify the National Chairman or contain material written by him. In some film productions the National Chairman appears, narrates or is otherwise involved. You say that in no issuance by ACU, of any type, has the National Chairman been, nor will he be, directly or indirectly recognized, promoted or otherwise identified as a candidate for President. Further, you state that Mr. Crane does not contemplate using the office of ACU National Chairman to further his presidential candidacy.

Your letter further states that ACU does not participate in primary elections or in the delegate selection process. No funds, in cash or in kind, will be transferred between ACU and Mr. Crane; he receives no remuneration as National Chairman although, prior to announcing his candidacy for President, he was reimbursed for expenses directly and necessarily incurred in

performance of his duties as ACU National Chairman. Since announcing his candidacy he has not nor will he accept reimbursement for any of those expenses.

Your request asks specifically whether the candidate, Congressman Philip M. Crane, can continue to serve as National Chairman for the American Conservative Union during the period in which he is a candidate for President of the United States. Since Mr. Crane is a candidate within the meaning of 2 U.S.C. 431(b) the question to be answered is whether the expenses incident to Mr. Crane's activities as National Chairman for ACU constitute contributions in kind to Mr. Crane's campaign and corresponding expenditures thus subject to contribution and expenditure (if he becomes eligible for matching funds under 26 U.S.C. 9033) limitations which may effectively prohibit Mr. Crane's role as National Chairman.

It is the opinion of the Commission that under the circumstances you describe Mr. Crane may continue as National Chairman of ACU and perform his duties as such without the costs of those activities being considered a contribution to Mr. Crane or corresponding expenditure. This conclusion is reached from your statements that in no issuance by ACU, of whatever type, has Mr. Crane directly or indirectly been recognized, promoted, or otherwise identified as a candidate for President, nor will he be; that Mr. Crane will not use the office to further his candidacy; that ACU does not seek to participate in primary elections or in the delegate selection process; and that there would be no transfer of funds from ACU to Mr. Crane or his committee.

The Commission assumes that Mr. Crane's involvement in ACU activity (i) will not occur in circumstances involving the solicitation, making or acceptance of campaign contributions for Mr. Crane's presidential campaign committee, and (ii) will not include any communication expressly advocating his nomination or election to the Presidency or the defeat of another clearly identified presidential candidate.<sup>1</sup> Since part of Mr. Crane's duties involve determining policy and supervision of affairs, this means that as long as ACU is not involved in any way with contributions to Mr. Crane and does not make any communication expressly advocating his nomination or election to the Presidency or the defeat of another presidential candidate, any resulting publicity will not be considered a contribution for purposes of the Act.

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  
Chairman for the  
Federal Election Commission

Enclosures

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<sup>1</sup> In a number of earlier opinions the Commission set out these conditions which, if complied with, would mean that publicity or receipts and expenses are not contributions or expenditures. See especially AO 1977-42, AO 1977-54 and AO 1978-46, copies of which are enclosed.