



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 17, 1978

ADVISORY OPINION 1978-65

Mr. G. C. Dorr, Treasurer  
Andy Ireland Campaign Committee  
P.O. Box 550  
Winter Haven, Florida 33880

Dear Mr. Dorr:

This responds to your letter of August 15, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the reporting status of the Andy Ireland Campaign Committee.

Your letter states that Mr. Ireland, a candidate for the United States House of Representatives from the 8th Congressional District of Florida, is unopposed in the 1978 Primary and General Elections, and that you have been advised that under present Florida State law a candidate who is unopposed will not have his name printed on either the primary or general election ballots. Your campaign committee has accepted contributions and made expenditures in anticipation of a 1978 campaign before learning that Mr. Ireland was unopposed. However, your campaign committee has accepted contributions and made expenditures in anticipation of a 1978 campaign before learning that Mr. Ireland was unopposed. However, your campaign committee continues to have obligations and commitments for campaign expenses through November. You have asked four questions:

- 1) "Since the candidate's (Andy Ireland) name will not appear on either ballot and no write-in votes will be cast, do we file our reports as receipts and expenditures for a November 7, 1978 general election.
- 2) Once we have paid all the expenses incurred for an anticipated 1978 campaign, do we then report the excess as contributions for a 1980 primary election.
- 3) How do we apply the contribution limitations in this situation, and the reporting of aggregates for 1978.

- 4) Are we required to file pre-and post-general election reports as well as quarterly reports."

Although Mr. Ireland's name will not appear on the general election ballot he is a participating candidate for purposes of disclosure in that election, since under Florida statutes<sup>1</sup> he will not receive a certificate of election until after the date of the general election. Accordingly, in answer to your first and fourth questions the Andy Ireland Campaign Committee will be required to file a ten day pre-general election report and a thirty day post-general election report as prescribed by 2 U.S.C. 434(a)(1)(A)<sup>2</sup>. The Committee will also be required to file an October 10 quarterly report if the Committee has received or expended more than \$1,000 in the period from July 1 through September 30, 1978. (If the Committee has received or expended less than \$1,000 during the third quarter of 1978 a post-card, in lieu of a report, may be filed.) Additionally, a year end report covering November 28 through December 1978 is required to be filed by January 31, 1979, if the Committee receives contributions or makes expenditures in the, fourth quarter which exceed, \$1,000. See 11 CFR 104.1(c)(1)(i) and 104.4(d).

In answer to your second question, under 110.3(a)(2)(iv) of the regulations, surplus funds from the 1978 campaign committee may be transferred or carried over to Mr. Ireland's campaign committee for 1980. To avoid application of the 1980 limits to each contribution comprising the transferred surplus, all funds transferred must have been received as of the date of the 1978 general election (rather than subsequent to that election). Except to the extent that there are outstanding debts from a 1978 election, each "contribution" after the date of the general election in 1978 is charged against the contribution limits of the original contributor with respect to a future election. Excess 1978 funds retained by the Committee would not have to be separately reported as a transfer or in any other manner if the contributors of those funds were previously disclosed, as required, on reports filed in 1978.

In answer to your third question, the contribution limits in 2 U.S.C. 441a apply with respect to each election in which a congressional candidate seeks nomination or election. 2 U.S.C. 441a(a)(6). Regulations of the Commission further explain that an election in which a candidate is unopposed is a separate election and if a primary election is unnecessary because a candidate is unopposed, the date on which that primary would have been held is deemed to be the date of the primary for purposes of the contribution limits. See 11 CFR 110.1(j). Thus as a candidate for nomination and a candidate for the general election you may receive \$1,000 with respect to the primary and \$1,000 with respect to the general election, from the same individual. 2 U.S.C. 441a(a). Commission regulations further provide that, as a general rule, contributions made after the date of the primary election are considered as made for the general election. 11 CFR 110.1(a)(2).

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<sup>1</sup> Certificates of election to the United States Congress are issued by the Florida Department of State after the "State canvass" of the vote. The Florida Election Code §98.331. The canvass is held after the closing of the polls and not later than noon on the day after the election. Id. §102.141; see also §§102.071, 102.111, 102.121, and 102.151.

<sup>2</sup> The Commission has previously held that an unopposed candidate for nomination whose name is not on the primary election ballot need not file the 10 day pre-and 30 day post-primary reports. Advisory Opinion 1978-41 (copy enclosed).

The reporting of calendar year aggregates for contributions received in 1979 is not affected in the situation presented. Under 2 U.S.C. 434(b)(2) a contribution in one calendar year is aggregated with other contributions from the same donor in that same year. For example, a contribution by check made in December 1978 is aggregated for reporting purposes with other contributions made and received in 1978 even though the contribution for limit purposes may count against the contributor's primary election limit for 1980.

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

Enclosure (AO 1978-41)