



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 15, 1978

AO 1978-93

Honorable Lloyd Bentsen
United States Senate
Washington, D.C. 20510

Dear Senator Bentsen:

This is in response to your letter of November 15, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the disposition of funds remaining from your 1970 Senate campaign.

Your letter states that in October 1970, your campaign manager purchased a cashier's check in the amount of \$500 from an Austin, Texas, bank which was payable to the Democratic Executive Committee of a county in Texas. You add that in mid-1978 the bank informed your former campaign manager that the cashier's check had never been redeemed and that the funds were about to escheat to the State. You note that the bank released the funds to your former campaign manager after he indemnified the bank against any future claim on the funds. These funds were then turned over to you as unexpended campaign funds from your 1970 campaign. You ask whether it is permissible under the Act to deposit these funds in the account of the Senator Lloyd Bentsen Re-election Committee ("the Committee") for use in the 1982 re-election campaign.

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 170(c) of Title 26 of the U.S. Code, or may be used for any other lawful purpose. 2 U.S.C. 439a, see also 11 CFR 113.2. The Commission's regulations also provide in 11 CFR 110.3(a)(2)(iv) that a candidate may transfer funds between a previous campaign committee and his 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 Opinions 1977-24, 1977-29, and 1977-63, copies enclosed. Since the \$500 represents excess campaign funds from a previous campaign, and assuming these funds do not include contributions which would be in violation of the Act, they may be transferred to the Committee for use in your 1982 reelection campaign. The funds should be reported by the

Committee as a miscellaneous receipt of 1970 excess campaign funds pursuant to 2 U.S.C. 434(b)(7) and 104.2(b)(7) of Commission regulations.

The Commission may express no opinion as to possible application of Senate rules to these funds since those rules are 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 2 U.S.C. 437f.

Sincerely yours,

(signed)

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosures