



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 19, 1979

ADVISORY OPINION 1978-99

Mr. Dale R. Sprik
580 Frey Bldg.
Grand Rapids, Michigan 49503

Dear Mr. Sprik:

This responds to your undated letter (received December 6, 1978) requesting an advisory opinion on behalf of the citizens to elect Dale Sprik Committee ("citizens") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the reporting of a campaign debt.

Your letter states that citizens incurred a debt on or before August 7, 1978, and received an invoice (dated August 7, 1978) for printed campaign materials: letterheads, brochures, envelopes, and buttons. You note that you were unopposed in the Michigan primary election held on August 8, 1978. You add that while the material was received and several of the items listed on the invoice were used before the primary, many "of the materials were used after the primary election in our general election." You ask whether the total amount of \$2,578.40 owing on the invoice may be treated as a primary campaign debt, or whether this amount should be prorated between the primary and general election campaign debt.

Under the Act, the term "expenditure" means a "purchase, payment, distribution, loan, advance, deposit of money, or anything of value, made for the purpose of influencing the nomination for election, or the election, of any person to Federal office." 2 U.S.C. 431(f)(1). The term "expenditure" also includes "a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make an expenditure." 2 U.S.C. 431(f)(2). Commission regulations further explain that a writing is required before an expenditure is made under 431(f)(2). See 11 CFR 100.7(a)(2).

In the facts presented here, the invoice constitutes a writing indicating that an expenditure in the nature of a contract, promise, or agreement occurred. Because the campaign material was ordered and received by Citizens before the primary election, and because the date of the invoice is before the primary, the Commission concludes that the full balance owing (\$2,578.40) for the expenditure may, if Citizens wishes, be treated as a primary election debt.

Assuming Citizens treats the debt as related to the primary election, it may accept contributions (otherwise lawful under the Act) to liquidate the debt from those persons who may have exhausted their general election contribution limit with respect to your 1978 general election candidacy, but who have not exhausted their contribution limit with respect to your 1978 candidacy for the primary election. (The fact that you were unopposed in the primary is irrelevant for contribution limit purposes, 11 CFR 110.1 (j).) See Commission regulations at 11 CFR 110.1(a)(2)(i) and 110.1(g)(2). See also the Commission's response to Advisory Opinion Request 1976-101, copy enclosed. The Commission notes that, as required by the Act and regulations, the debt has been identified and designated as a primary election debt on a Schedule C filed with Citizens 30 post-general election report. See 2 U.S.C. 434(b)(12), and 11 CFR 104.1(a) and 104.8.

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