



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

February 9, 1979

ADVISORY OPINION 1979-1

Honorable John R. Otterbacher  
State Capitol  
Lansing, Michigan 48909

Dear Mr. Otterbacher:

This responds to your letter of December 30, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to debts incurred by the Friends of Senator Otterbacher ("the committee").

You state that the committee is an unincorporated association and that it is "unclear" under State law whether or not members and agents of the committee can be held personally liable for debts incurred by the committee in connection with your 1978 campaign for nomination for election to the United States Senate. You ask the Commission's opinion as to whether, if committee members or agents are held liable for the committee's debts under Michigan law,\* the \$1,000 per election contribution limit of 2 U.S.C. 441a would still apply to those members or agents.

While as a candidate or former candidate for Congress you may make unlimited expenditures from your personal funds to retire campaign-related debts (11 CFR 110.10(a)), contributions made by others to retire your 1978 Senate campaign debts are subject to the limitations of 2 U.S.C. 441a and Part 110 of Commission regulations. See specifically 11 CFR 110.1(g)(2). See also Advisory Opinions 1978-99 and 1977-52, and the Commission's response to Advisory Opinion Request 1976-88, copies enclosed.

Your request suggests the possibility of state judgments being entered against members or agents of the committee holding them personally liable for the committee's debts; but at this point that situation appears to be a hypothetical one. The Commission's authority to issue advisory opinions is limited to requests concerning application of the Act to specific factual situations. See 2 U.S.C. 437f. Part 112.1 of the Commission's regulations further states that hypothetical questions will not be treated as advisory opinion requests. Accordingly, if the

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\* In Advisory Opinion 1975-102 (copy enclosed), the Commission stated that, in general, debt claims and liabilities are subject to relevant State law, and a committee's responsibility for satisfying the obligations would be determined with reference to those laws.

situation develops where a creditor of the committee files an action under State law against committee personnel in their individual and representative capacities which results in a judgment for the creditor holding committee personnel personally liable, the Commission would, at that time, give further consideration to the question of whether payments by those persons in satisfaction of the judgment would constitute contributions subject to limit under 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