



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 3, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-2

Darryl Wold
McClain and Wold
4630 Campus Drive, Suite 200
Newport Beach, California 92660

Dear Mr. Wold:

This responds to your letter of January 11, 1979, as supplemented by your letter dated February 28 and received March 12, 1979, on behalf of the Badham Congressional Committee ("the Committee"), requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the repayment of advances made by the Committee for a Federal Procurement Conference sponsored by Congressman Badham.

According to your request, the Congressman is the sponsor of a Federal Procurement Conference which will be coproduced by the United States Departments of Defense and Commerce. The Badham Congressional Committee has paid, on behalf of the Conference, a deposit of \$400 to the South Coast Plaza Hotel in Costa Mesa, California where the Conference will be held on May 11, 1979. The Committee contemplates making other expenditures for initial costs of the Conference such as printing invitation brochures for approximately \$225. The Conference will receive \$18 from each person who registers for the Conference. These funds will be spent for renting the hotel facilities, printing invitation materials, providing luncheon for each attendee, and incidental miscellaneous costs. Any excess funds will be donated to a charity selected by Congressman Badham. The fees will be deposited into, and disbursed from a bank checking account established exclusively for the Conference. You further state that for purposes of the request, it should be assumed that all income to the conference will be from corporations, many of whom will be contractors with the Federal government.

Specifically you ask the following:

(1) May the Federal Procurement Conference repay to the Badham Congressional Committee the amounts advanced by the Badham Congressional Committee for costs of the Conference, without regard to the nature of the source of the funds received by the Conference?

(2) To the extent payment by the Badham Congressional Committee on behalf of the Federal Procurement Conference are refundable deposits, may the Badham Congressional Committee accept refunds directly from the vendor to whom the amounts were paid, upon payment to the vendor by the Conference?

The answer to both questions is no. Repayment and return to the Committee of expenses and deposits it previously paid on behalf of the Conference would result in the Committee's acceptance of indirect contributions from corporations and Government contractors, since the repayment and deposit refund would only be paid if the Conference receives sufficient income to defray all its expenses. The Conference's income will come from corporate and Government contractor sources which are prohibited from making contributions for Federal elections. Thus, the Committee may not receive the described repayment and refund under the conditions described, since those funds would then be available for use in a Federal election campaign in violation of 2 U.S.C. 441b(a).

However, under the specific circumstances presented in your request and if reimbursement to the Committee is desired, the Commission would not conclude that an enforceable violation of the Act had occurred if the following action is taken:

(1) before the Conference date Congressman Badham makes payment from his personal funds to the hotel and printer in the same amounts as the Committee has previously paid; and

(2) the hotel and printer immediately return to the Committee the amounts they have received as a deposit or advance for Conference expenses; and

(3) the Committee discloses the refunds on its next required report (see 2 U.S.C. 434 and 11 CFR 104.2).

The vendors' refunds of payments advanced by Congressman Badham from personal funds on behalf of the Conference would be outside the purview of the Act and commission regulations since, based on the facts presented in the advisory opinion request, it does not appear that financing of the Conference involves "contributions" or "expenditures" made for the purpose of influencing Congressman Badham's nomination or election to Federal office.

The Commission expresses no opinion regarding application of House Rules in the situation you have described, nor may it express any opinion regarding possible tax ramifications since those issues 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 only the specific

transactions presented in this request. The Commission emphasizes that the foregoing opinion should be narrowly read by others, and rather than relying solely on this opinion, separate requests should be submitted by persons wishing guidance in this area even though their factual situations may appear to be "indistinguishable in all...material aspects" from the transactions discussed herein. 2 U.S.C. 437f(b)(2).

Sincerely yours,

(signed)

Joan D. Aikens
Chairman for the
Federal Election Commission