



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 22, 1979

ADVISORY OPINION 1979-5

William C. Pierson, Esq.
3601 Southwest 2nd Avenue
Gainesville, Florida 32607

Dear Mr. Pierson:

This responds to your letter of February 7, 1979, requesting an advisory opinion as treasurer of the Brathwaite for Congress Committee, ("the Committee"), regarding application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the proposed termination of the Committee.

You state that you and Mr. Brathwaite would like to file a termination report for the principal campaign committee but you are precluded from doing so because the Committee is owed two refunds by suppliers of services to the Brathwaite campaign. The Committee has a claim for a \$300 refund from an individual who was compensated for research service which was not performed. The second refund involves reimbursement from an advertising agency which issued worthless checks to pay for Committee ads; the Committee covered the agency's checks with its own funds. These refunds have not yet been received and there is no indication that payment from the obligors will be forthcoming in the foreseeable future. Additionally, the Committee owes a debt to the candidate which exceeds the value of the two refunds.

You ask specifically whether, inasmuch as Mr. Brathwaite has "outstanding loans to the committee in excess of the amount of refunds due," it would be permissible under the Act for the Committee to assign these two claims against its debtors to him "in exchange for his giving the Committee credit for a loan repayment equal to the refunds." Mr. Brathwaite would then forgive the balance of the debt owed him by the Committee and a termination report could be filed.

As you know, under the Act and the Commission's regulations, a principal campaign committee which wishes to terminate and end its reporting obligations may do so upon filing a termination report, but only when all outstanding debts and obligations owed to or by it are extinguished. See 11 CFR 102.4 and 104.1(a).

Based on the factual situation you have presented, the Commission concludes that the Committee's proposed assignment of its refund claims to the candidate, in exchange for his

crediting the Committee with a loan repayment equal to the sum of the refunds, will effectively transfer the obligation owed to the Committee by the suppliers of services. In turn, Mr. Brathwaite's forgiving of the outstanding balance of his loan to the Committee will extinguish the debt owed to him by the Committee, thereby clearing the Committee to file a termination report under the Commission's regulations. This assumes that the Committee has no other outstanding debts or obligations and that the Committee satisfies all other requirements of 11 CFR 102.4(a) and (b).

The Commission notes that when the Committee assigns its claims for refunds to Mr. Brathwaite in full payment of its debt to him, the Committee's debt to Mr. Brathwaite is extinguished whether or not the refunds are ever received by him.

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