



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

May 3, 1979

CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-9

John Pouland  
The Texas Democratic Party  
215 Stokes Building  
Austin, Texas 78071

Dear Mr. Pouland:

This is in response to your undated letter received on February 26, 1979, as supplemented, by letters received on March 5 and 18, 1979, requesting an advisory opinion concerning the applicability of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the ability of the Texas Democratic Voter Participation Project to eradicate the outstanding debts of at least 5 Federal candidates from Texas, three of whom were candidates in the general election and two of whom were candidates only in the primary.

Your request states that the Texas Democratic Voter Participation Project is an authorized subordinate committee of the Democratic Party in Texas. On its behalf you ask the following:

- 1) May our committee make direct payment on behalf of our 1978 Federal candidates to the creditors of those candidates?
- 2) In soliciting contributions are we required to state that the money will be spent to eradicate the debts incurred during the 1978 campaign?
- 3) Does the \$5,000 contribution limit on individual contributions to our committee apply on a calendar year basis?
- 4) Does the \$25,000 annual personal limit apply to contributions to our committee?

In response to your first question the Commission answers in two parts. First, regarding candidates who lost in the primary, your committee which is a multicandidate political committee as defined in 441a(a)(4) may make total contributions not exceeding \$5,000 to each candidate with respect to their primary election for Federal office. 2 U.S.C. 441a(a)(2)(A). Payment of a candidate's debts directly to the creditor would be a contribution subject to 441a(a) limits. See 11 CFR 110.1(g)(2). Such payments would also have to be combined with any pre-primary contributions by your committee to the same candidate, since only one \$5,000 limit is available for primary election contributions. Second, for those candidates who were in the general election, 2 U.S.C. 441a(d) applies. Section 441a(d)(1) provides that a State committee of a political party may make expenditures in connection with the general election campaign of its candidates for Federal office, subject to the limitations contained in that subsection. Although legislative history is silent as to the applicability of this section to the payment of candidate debts by the party committee, the 1976 Conference Report makes clear that the limited permission in 441a(d) allows political parties to make contributions in kind which would otherwise be covered by the contribution limits in 441a(a). See House Report No. 94-1057, page 59. Hence, the Commission concludes that payments by the committee to candidate creditors are expenditures for purposes of 441a(d) and that your committee may make direct payment to the creditors of the candidates who were in the general election, subject to the limits set forth in 441a(d)(3). However, all other 441a(d) expenditures made by the committee for a particular candidate's general election campaign must be combined with the payments to retire debts and when combined must be within the applicable 441a(d)(3) limit. In addition, the committee may also make payments to the candidates' creditors to the extent that the committee has not exhausted its 441a(a) contribution limits in pre-general election contributions. 11 CFR 110.7(b)(3).

Your second question is whether in soliciting contributions you are to state that the money will be spent to eradicate the debts incurred during the 1978 campaign. According to Commission regulation 102.6(b), your committee may receive only contributions (a) designated for your committee, (b) received as a result of a solicitation which expressly states that the contribution will be used for Federal elections, or (c) from contributors who are informed that all contributions are subject to the limitations of 110.1, 110.2 and 110.5. Therefore, the Commission would not require that contributors be informed that their contributions will be used to retire debts incurred by specific candidates for Federal office in their 1978 campaigns.

The answer to your third question is yes-- the \$5,000 contribution limit on individuals contributing to your committee is a limit by calendar year. Section 441a(a)(1)(C) clearly states that no person shall make contributions to any other political committee (one that is not an authorized candidate committee or a political committee established by a national political party) in any calendar year which, in the aggregate, exceed \$5,000.

Your final question concerns application of the annual \$25,000 personal limitation to contributions by individuals to your committee. Section 441a(a)(3), which contains the personal limitation, states that an individual may not make contributions:

"aggregating more than \$25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar

year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held."

Commission regulations at 11 CFR 110.5 explain that an individual's contribution to a political committee in a non-election year is not attributable to the calendar year in which an election is held as long as the political committee is not the principal campaign committee or other authorized committee of a candidate, or a single candidate committee supporting the candidate, and as long as the contribution is not otherwise designated for a particular election. In this instance any contributions by an individual to your party committee between January 1, 1979, and December 1, 1979, will be attributed to the \$25,000 limit for 1979 regardless of the fact that this money may be used by the party committee to retire debts incurred by Federal candidates in 1978 elections.

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