



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 20, 1979

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-12

Honorable Bill D. Burlison
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Burlison:

This refers to your letters of March 21 and 27, 1979, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to your selling of banquet tickets for a political rally and fundraiser known as "Truman Day."

Your request explains that the Democratic party in Butler County, Missouri plans to have an annual political rally and fundraiser known as "Truman Day" and that you have worked out an arrangement with the Truman Day Committee whereby you will sell banquet tickets in the last month before the event. Under the arrangement one half of the proceeds you collect from the sale of these tickets will be retained by your campaign committee, the Tenth District Burlison for Congress Committee ("the Committee"). The other one half of the proceeds will be forwarded to the Butler County Democrats. You have asked two questions:

- (1) Is this arrangement legal?
- (2) What reporting mechanisms would be proper to handle this type of transaction?

In response to question one, the Commission is of the opinion that under the Act you may collect contributions for the Committee and in conjunction with collecting those contributions you may also collect contributions for the Butler County Democrats which, according to records at the Commission, is not registered or reporting as a "political committee" under the Act. Contributions which you solicit and receive for the Committee are required to be recorded and accounted for, deposited in a duly designated depository of the Committee, reported on reports filed by the Committee, charged against the applicable contribution limits of the Act, and may be

accepted only from persons who are not prohibited by the Act from making contributions to the Committee. See 2 U.S.C. 431(e), 432, 437b, 434(b) and 441a-441g.

Since you have stated that the arrangement provides for you to receive one half of the proceeds from the Truman Day banquet tickets you sell, your Committee must pay one half of the expenses incurred to produce the tickets to avoid the occurrence of a contribution in-kind to your Committee from either the Truman Day Committee or the Butler County Democrats. Under the Act the term "contribution" includes a gift of anything of value for the purpose of influencing the nomination or election of any person to Federal office. Commission regulations at 100.4(a)(1)(iii)(A) provide that anything of value includes goods, supplies, advertising, services, and other in-kind contributions provided without charge or at a charge below the usual and normal charge for the items. If the Truman Day Committee and the Butler County Democrats (or either of them) pay all the expenses connected with producing the banquet tickets, they should have paid fundraising expenses allocable to your campaign inasmuch as you have used the tickets to solicit contributions to your own campaign as well as donations to the Butler County Democrats. In addition, other expenses of the Truman Day fundraiser which are made for the purpose of influencing your nomination or election as a clearly identified candidate, such as expenses for advertising where your candidacy for Federal office is advocated, would have to be paid on an allocated basis by the Committee in order to avoid a contribution in kind to you by the Truman Day Committee or the Butler County Democrats. Commission regulations at 106.1 set forth the general rules, with exceptions, for allocation of expenditures.

Your second question relates to the required reporting for this type of transaction. It does not appear that either the Butler County Democrats or the Truman Day Committee would have reporting obligations under the Act with respect to the receipts and disbursements of the fundraiser provided they do not spend those funds, or otherwise receive "contributions" or make "expenditures," for the purpose of influencing the nomination or election of any person to Federal office in an aggregate amount exceeding \$1,000 in a calendar year.¹ See 2 U.S.C. 431, 433, 434. As noted above, neither of these committees according to records of the Commission has registered or reported as a "political committee." On the other hand, the Tenth District Burlison for Congress Committee would be required to report the proceeds you collect on behalf of the Committee as "contributions" under the Act.

More specifically, contributions collected for the Committee would have to be accounted for and a record made of the identification of each person making any contribution in excess of \$50 as well as the occupation and principal place of business of individuals whose contributions to your committee in a calendar year exceed \$100. See 11 CFR 102.9(a). In the circumstances you have described, the contributions for your committee would be one half of the gross ticket price; no deduction may be made for the costs incurred by the Truman Day Committee in providing the meal that will be served at the fundraiser. See 11 CFR 100.4(a)(2). Contributions, that is one half of the proceeds you collect from each ticket sold, are required to be reported by your committee as either unitemized or itemized contributions depending on the amount of each contribution and the identity of the contributor. The reporting requirements are found in 2 U.S.C.

¹ As discussed in responding to question (1), your Committee would have to pay its allocable share of expenses for producing the tickets as well as certain additional expenses to avoid treating the other committees' payments as contributions in kind to your Committee.

434(b) and 104.2(b) of Commission regulations. Also, a Schedule D must be filed by the Committee stating the total amount of proceeds collected on its behalf from sale of the banquet tickets. See 2 U.S.C. 434(b)(6)(A) and 11 CFR 104.2(b)(6)(i). Schedule D contains instructions for reporting this information.²

You have stated that proceeds of ticket sales you make will be divided in half--50% to the Committee and 50% to Butler County Democrats. To avoid treating all funds you collect by check as contributions to your committee, those checks made payable to Butler County Democrats (or the Truman Day Committee) need to be deposited within 10 days of receipt in a transmittal or clearing account and your 50% share of all proceeds may then be forwarded by check drawn on such account to your regular campaign account. This transmittal account (as well as your regular campaign account) must be maintained at a campaign depository designated and disclosed by you and your committee. 2 U.S.C. 433(b)(9), 437b(a). Under this arrangement, your committee needs to report and otherwise treat as contributions subject to the Act only your 50% share of the ticket proceeds you collect. See Advisory Opinion 1977-20 (copy enclosed) for more extensive guidance and discussion of the issues raised by your request. Of particular importance are the required notice to contributors pursuant to 102.6(b) of Commission regulations and the prohibitions on accepting, even into the described transmittal account, contributions from treasury funds of corporations, labor organizations and national banks; from Government contractors, foreign nationals, persons giving in the name of another person as well as currency contributions exceeding \$100. 2 U.S.C. 441b, 441c, 441e, 441f, and 441g.

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

² The Commission notes that the Committee needs to file detailed quarterly reports by April 10, July 10 and October 10 of 1979 only for those quarters the Committee and you personally as a candidate, as well as all your other authorized committees, have received contributions or made expenditures in excess of a combined total amount exceeding \$5,000. 2 U.S.C. 434(a)(1)(C); 11 CFR 104.1(c).