



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 19, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-37

Honorable Daniel J. Flood
House of Representatives
Washington, D.C. 20515

Dear Mr. Flood:

This is in response to your letter of July 3, 1979, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the receipt of contributions to your legal defense fund.

Your letter states that you have been "charged criminally and, before the Ethics Committee of the House of Representatives of the United States, with certain improprieties in the fulfillment of... [your] duties in Congress." You add that in trying to pay for the costs incurred in connection with your legal defense against these charges, your personal financial resources have been exhausted. You state that in order to have legal counsel it is necessary to raise funds from voluntary contributions. You have enclosed with your letter a copy of a trust agreement, known as the Daniel J. Flood Defense Fund Trust, (or "Trustflood"). All funds received for your legal defense will be deposited in and disbursed by this trust, which will be administered by the Northeastern Bank of Pennsylvania. Under articles of the trust its purpose is "to pay the necessary and appropriate expenses incurred by the trustor [Daniel J. Flood] resulting from any allegations, charges or actions that have arisen or may arise in judicial, civil, criminal, administrative, state, Federal or congressional proceedings or inquiries involving or concerning him..." All expenditures from the trust have to be approved by both yourself and your chief counsel, and expenditures will only be made to pay for the costs of your legal defense. You ask whether, under these circumstances, "there is anything illegal" about an individual, partnership, association or corporation, whether profit or non-profit, or a national labor union organization, or a national educational or health organization, or the principal officers of such organizations voluntarily donating funds to the trust for your legal defense.

Under the Act, a "contribution" means a gift, subscription, loan, advance, or deposit of money, or anything of value made for the purpose of influencing the nomination or election of

any person to Federal office. 2 U.S.C. 431(e). Similarly the term "expenditure" is defined in an identical fashion as relating to payments made for the purpose of influencing a person's nomination or election to Federal office. 2 U.S.C. 431(f).

Because the donations to and disbursements from the trust are exclusively connected with, and strictly for the purpose of, paying the costs of your legal defense, such donations and disbursements would not be "contributions" or "expenditures" as those terms are defined in the Act. Accordingly, the Commission concludes that nothing in the Act or the Commission's regulations would limit or prohibit the trust from receiving such donations from those sources you have described in your letter. Nor would you or the trust be required to file disclosure reports under the Act or Commission regulations.

The Commission expresses no opinion regarding the applicability of the Rules of the House of Representatives to the establishment and use of the trust. Nor does the Commission express any opinion regarding any Federal income tax ramifications or the applicability of any other Federal law, since those issues (if any) 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 the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Robert O. Tiernan
Chairman for the
Federal Election Commission