



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 17, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-39

Mr. Marion Edwyn Harrison
Barnett, Alagia & Carey
1627 K Street, N. W.
Washington, D.C. 20006

Dear Mr. Harrison:

This responds to your letter of July 17, 1979, requesting an advisory opinion on behalf of the Crane for President Committee ("the Committee"), concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the treatment of contributions received as a result of solicitation by a "commission agent."

Specifically you ask the following two questions:

1. If our client were to receive a contribution solicited by a commission agent, the full amount of the contribution to be paid over to our client, the agreed amount of the commission (as, for example, a small percentage) to be credited, and subsequently paid over, to the agent, would our client treat the gross sum or the net sum (contribution less commission) as a contribution?
2. Given the same facts as set forth in #1, above, except that the commission agent pays over to our client only the net amount of the contribution, would our client treat as a contribution the net amount or the gross amount?

The Commission is of the view that in either situation the gross sum received on the Committee's behalf as a result of contribution solicitations by its agent is to be treated as the contribution.

2 U.S.C. 431(e) defines "contribution", in part, as a gift or anything of value made for the purpose of influencing the nomination or election of any person to Federal office. The commission has previously held that payment of fundraising costs by a contributor is to influence

an election and is thus a contribution. Advisory Opinion 1975-62, copy enclosed. In a series of opinions the Commission stated that fundraising costs may not be subtracted pro rata from the price of an item or ticket to a campaign fundraising event which is "sold" in exchange for a political contribution, so as to reduce the amount of the contribution. Re: AOR 1976-45, AO 1975-49, AO 1975-15, copies enclosed. This view is now mandated by 100.4(a)(2) of Commission regulations which provides that "contribution" includes "[T]he donation of all or a portion of the costs of fundraising, such as the cost of a meal as part of a fundraising dinner."

In the situations you present, part of the cost of the fundraising is the agent's commission which appears to be a percentage of the total contribution received in response to a solicitation made by the agent on the Committee's behalf. Since a part of the contribution is used to defray fundraising costs, that contribution is, in effect, a donation of all or a portion of the costs of fundraising. Thus, the total amount contributed must be treated as a contribution to the Committee regardless of whether the gross or net amount of the contribution collected by the fundraising agent is paid over to the Committee.

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

Enclosures (AO 1975-62, Re: AOR 1976-45, AO 1975-15, AO 1975-49)