



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 5, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-49

C. C. Clinkscales, III
Treasurer
Independent Campaign to Elect William E. Simon President
777 14th Street, N.W. Suite 1300
Washington, D.C. 20005

Dear Mr. Clinkscales:

This refers to your letter of August 27, 1979, in which you request an advisory opinion as treasurer of the Independent Campaign to Elect William E. Simon President ("the Committee") regarding the application of limits contained in the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations to contributions received and expenditures made by your committee.

In your request you state that the Committee is an unauthorized political committee supporting only William E. Simon and seeking to cause Mr. Simon to become an active candidate in the 1980 presidential election. If he does so, the Committee expects to terminate.

You state further that the Committee's efforts are now directed toward raising and expending funds to influence persons to "choose William E. Simon for President" in primaries in which the Committee enters his name as a ballot candidate or a write-in candidate.

Specifically, you ask for guidance on the following questions.

- (1) May the Independent Campaign to Elect William E. Simon President accept contributions in excess of \$1,000 but not more than \$5,000 per calendar year, from individual contributions or other political committees to be expended to publicize issues relating to the 1980 Presidential election and to cause William E. Simon to become a candidate for the Office of President?

- (2) Is there any monetary limit on the amount of money the Independent Campaign may expend in any state campaign designed to promote Mr. Simon's entry into the 1980 Presidential election?

In response to your first question, the Commission concludes that the Independent Campaign to Elect William E. Simon President may accept contributions in excess of \$1,000 but not more than \$5,000 per calendar year from individual contributors and other political committees. 2 U.S.C. 441a(a) prescribes limitations on contributions made by persons and political committees. The situation you described is governed by 2 U.S.C. 441a(a)(1)(C). That section limits individual contributions to an unauthorized political committee to \$5,000 in a calendar year. Similarly, 2 U.S.C. 441a(a)(2)(C) limits contributions by multicandidate political committees to an unauthorized political committee to \$5,000 in a calendar year. It should be noted with regard to limitations that contributions made by an individual to the Independent Campaign will be counted toward the aggregate total of that individual's contributions which under 2 U.S.C. 441a(a)(3), may not exceed \$25,000 in any calendar year.

In response to your second question, the Commission concludes that there is no monetary limit on the amount of money the Committee may expend in a state campaign designed to promote Mr. Simon's entry into the 1980 presidential election.

Expenditures of non-party committees are limited by the Act only if they are made by Presidential candidates (or their authorized committees) eligible for primary matching funds under 26 U.S.C. 9033 or for general election funding under 26 U.S.C. 9003. See 2 U.S.C. 441a(b). The Act prescribes no expenditure limit for an unauthorized political committee whose activities have been disavowed* by the individual being supported by the committee.

The Act prescribes no limitations on independent expenditures made by political committees. Independent expenditures made under 11 CFR 109.1(a) are those expenditures made by a person or political committee for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committees of a candidate. Expenditures made by the Committee may not be properly characterized as "independent expenditures" since Mr. Simon is not a candidate for nomination to the office of President. Nevertheless, as explained above, the expenditures are not subject to limitation. Neither are they subject to the reporting requirements of 2 U.S.C. 434(b)(13) which relate to independent expenditures of political committees. The other 434(b) reporting requirements for receipts and expenditures do apply to the Committee. See also 11 CFR 104.2(b).

* According to Commission records, Mr. Simon disavowed the activities of the Independent Campaign to Elect William E. Simon President on August 10, 1979.

The issues which you raise in your advisory opinion request have been addressed by the Commission in Advisory Opinion 1979-40, a copy of which is enclosed.

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

Enclosure (AO 1979-40)