



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 6, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-107

Mr. Robert P. Visser  
Peabody, Rivlin, Lambert & Meyers  
1150 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Dear Mr. Visser:

This responds to your letter of September 15, 1980 requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to political activity by Dean Burch, Esquire, a senior partner in a law firm, on behalf of the Reagan-Bush Committee ("the Committee").

According to your letter, Mr. Burch is a senior partner in a law firm. You state that his compensation is not tied to the number of hours he works, rather, his compensation is tied to his proprietary interest in the firm. Thus, he may use his time as he sees fit with the proviso that he may not engage in another economic enterprise. Further, his compensation reflects a variety of factors, including status in the Bar, ability to attract clients, effectiveness in problem-solving and value as a counselor to other attorneys in the firm and clients.

Your letter explains that Mr. Burch has served since July 18, 1980 as a volunteer with the Committee in the role of senior advisor to George Bush. Mr. Burch expects to continue his activities which are of a political nature through November 4, 1980. You state that while serving as senior advisor he has remained and will continue to be throughout the 1980 Presidential campaign an active member of his firm and member of its executive committee. This encompasses the availability to fulfill his duties in those regards, including supervision of work, communication with clients and attendance at meetings of the executive committee and the partnership.

You go on to say that although he has these ongoing duties, almost all of his time during the normal work week since July 18 has been and will continue to be devoted to Committee

business. Nevertheless, Mr. Burch's share of the firm's net income will not be reduced due to the time working with the Committee, nor does he intend to make up this time.

You state that, based on an advisory opinion issued by the Commission you have advised Mr. Burch and his firm that he may volunteer his time to the Committee without the firm being considered to have made a contribution to the Committee. You ask if the Commission agrees with this conclusion and, if not, you ask for guidance as to how Mr. Burch's volunteer participation can be brought into compliance with the requirements of the Act.

As recognized in your request, the Commission in Advisory Opinion 1979-58, which concerned political activity on behalf of a presidential committee by a senior partner in a law firm during normal business hours, considered a number of factors to conclude that the income paid by the firm to the partner did not constitute an in-kind contribution to the Committee. There, as here, the request represented that the partner's compensation was not tied to the number of hours worked but, rather, was based on a proprietary interest in the firm which reflected a number of factors, including stature in the Bar, ability to attract clients, problem solving, and counseling, among others. That request also represented that the partner had complete discretion in the use of his/her time and that no reduction of income from the firm would be made even if, for whatever reason, the partner spent less time on firm matters than may have been spent during a previous period when no services were provided to the Committee. Similarly, in your request you state that Mr. Burch may use his time as he sees fit with the proviso that he may not engage in another economic enterprise.

In light of the fact that the situation under consideration appears from your representations to be indistinguishable from the situation in Advisory Opinion 1979-58, the Commission concludes that as in AO 1979-58 this partner may volunteer his time to the Committee without his income from the firm constituting an in-kind contribution for purposes of the Act. 2 U.S.C. 431(8)(A).

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Max L. Friedersdorf  
Chairman for the  
Federal Election Commission

P.S. Commissioner Reiche voted against approval of this opinion and will file a dissenting opinion at a later date.