



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 10, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-110
Mr. Lester Adler
99 Mamaroneck Avenue
White Plains, New York 10601

Dear Mr. Adler:

This responds to your letter of September 8, 1980, as supplemented by your letter received September 24, requesting an advisory opinion on behalf of the local Greenburgh Democratic Campaign Committee ("the local Committee") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the effect certain activities of the local Committee have on its status as a "political committee."

According to your letter your local Committee will be renting a headquarters in the town of Greenburgh, New York. The local Committee intends to receive a contribution of \$500 each from the candidate for New York State Assembly, New York State Senate, and United States Congress (23rd C.D.). You also plan on receiving \$500 from the Greenburgh Democratic Committee and \$250 from the Greenburgh Democratic Club for an overall total of \$2,250. This money will be used to run the headquarters rented for the benefit of the three candidates who are contributing funds to the local Committee. Running of the headquarters includes phones, volunteers and mailings. You explain that the local Committee will no longer exist after election day, 1980. The local Committee will be allowing the campaign committee for President Carter to share the headquarters for their own campaign. The Carter committee will contribute half the rent and half the utility fees for the joint headquarters. There will be no other connection between the local Committee and the Carter committee.

You specifically ask whether or not, due to the stated arrangement, the local Committee must file with the Federal Election Commission. That is, does the intended activity trigger "political committee" status for purposes of the Act which would require the committee to register and file reports?

Only committees which are "political committees" for purposes of the Act are required to register with the Commission and file reports. 2 U.S.C. 433, 434. When concerned with local party committees under the Act, "Political committee" means in part:

any local committee of a political party which receives contributions aggregating in excess of \$5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) of this section aggregating in excess of \$5,000 during a calendar year, or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year. 2 U.S.C. 431(4)(c).

According to your letter the amount of funds the local committee intends to receive is \$2,250. As for disbursements, your letter states that the money will be used to rent a headquarters and be spent for phones, volunteer activities and mailings on behalf of the three candidates (two state and one congressional). As a result of the 1979 Amendments to the Act, the Act and Commission regulations implementing those amendments include several exemptions to the definition of "contribution" and "expenditure" that enhance political participation by local party committees. For example, under 2 U.S.C. 431(8)(B)(x) and 431(9)(B)(viii) certain payments by a local party committee may be made for "the cost of campaign materials (such as pins, bumper stickers, handbills...) [which are] used by such committee in connection with volunteer activities on behalf of nominees of such party..." provided certain specified conditions are met. 11 CFR 100.7(b)(15) and 100.8(b)(16).

In addition, under 2 U.S.C. 431(8)(B)(v) and 431(9)(B)(iv) certain payments by a local party committee may be made for the costs of preparation, display, or mailing or other distribution incurred with respect to a printed slate card or other printing of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized provided the cost is not for general public political advertising. See 11 CFR 100.7(b)(9) and 100.8(b)(10).^{*} There is no limitation under either exemption as to the amount of funds which can be spent on such activities. Absent other factors which would trigger "political committee" status, the local Committee would not achieve "political committee" status under the Act unless the aggregate cost for the exempted activities exceeds \$5,000 in a calendar year.

Your request, however, mentions "phones" as one aspect of headquarters activity. The Act at 431(8)(B)(xii) and 431(9)(B)(ix) contains exemptions for the payment by a local party committee of the costs of get-out-the-vote activities, including phone banks when operated by volunteer workers, conducted by such committee on behalf of the Presidential and Vice Presidential nominees of that party. See 11 CFR 100.7(b)(17). If such activities include references to any candidate(s) for the House or Senate, the costs which are allocable to that

^{*} It should be noted that payment of the portion of such costs, that is for the campaign materials and for the slate card type of printing, allocable to the Federal candidate must be made from funds subject to the limitations and prohibitions of the Act. See 11 CFR 100.7(b)(9) and 100.8(b)(10) and 11 CFR 100.7 (b)(15)(ii) and 100.8(b)(16)(ii).

candidate are contributions unless the mention of such candidate(s) is merely incidental to the overall activity. 11 CFR 100.7(b)(17)(iv).

Since it appears from your request that the phone activity is on behalf of the three candidates originally mentioned and not on behalf of a Presidential candidate, the costs for the phone are not exempted from the definition of "contribution" and "expenditure." Thus, the cost would constitute an expenditure by the local Committee which would have to be attributed as a contribution in-kind to each candidate in proportion to the benefit reasonably expected to be derived. 11 CFR 106.1. If the amount attributable to the Federal candidate exceeds \$1,000, the committee would have made an expenditure in excess of \$1,000 and would qualify as a "political committee" under 2 U.S.C. 431(4) (C) thereby triggering registration and reporting responsibilities.

In summary, the Commission concludes that if the activities which the committee intends to undertake are within the party committee exemptions; if the aggregate costs incurred do not exceed \$5,000; if the cost for the phone activity attributable to the Federal candidate does not exceed \$1,000; and if no other expenditures or contributions (as defined in the Act and Commission regulations) are made by the local Committee, then it would not attain "political committee" status under the Act and thus would not be required to register with and report to the Commission.

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

Enclosure (Record Supplement for State and Local Party Organization)