



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 7, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-117

Ms. Susan Danielski
Treasurer
Concerned Citizens for Kleczka
3268 S. 9th Street
Milwaukee, Wisconsin 53215

Dear Ms. Danielski:

This responds to your letter of September 18, 1980 requesting an advisory opinion on behalf of Concerned Citizens for Kleczka, a state campaign committee, ("the Committee") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations to the conversion of the Committee into a principal campaign committee for a candidate for Federal office.

According to your request, a state campaign committee authorized by Gerald D. Kleczka as a candidate for State office may wish to be designated and register as a principal campaign committee authorized by Mr. Kleczka under 2 U.S.C. 432 and 433. Monies now a part of the state committee were received from "voluntary segregated funds" of labor organizations utilizing a reverse check-off system, as well as from segregated funds established by national banks.

Your understanding is that under the Act and Commission regulations contributions to a Federal committee from labor organizations and national banks as well as contributions from separate segregated funds using reverse check-off procedures are prohibited. Thus, you ask if the state committee whose account contains monies prohibited under the Act may be converted into a principal campaign committee for a candidate for Federal office by returning the prohibited contributions. If so, must contribution returns date back to the formation of the Committee or be done on a first in, first out basis?

The Commission concludes that the Committee, currently a state committee, could by excluding on a first in, first out basis all contributions which are impermissible under the Act be designated and register as a principal campaign committee, if done in compliance with the requirements of 2 U.S.C. 432 and 433.

Section 104.12 of the Commission's regulations specifically addresses a political committee which already has funds at the time of registration with the Commission as a "political committee". Since a principal campaign committee of a candidate for Federal office would be a political committee as defined in the Act, 2 U.S.C. 431(4) and 432(e), 104.12 of the regulations would be applicable to a principal campaign committee which has funds on hand when it first registers with the Commission. Section 104.12 requires that if at the time of registration a political committee has cash on hand, the source of these funds must be disclosed on the committee's first report, and the information required by Commission regulation 104.3(a)(1) must also be included. Moreover, according to 104.12 the cash balance is assumed to be composed of those contributions most recently received by the committee before its registration. Section 104.12 also requires that the committee must exclude from funds to be used for Federal elections any contributions not permissible under the Act.

While contributions to a federal candidate from the treasury funds of labor organizations, national banks, and corporations, are prohibited under the Act, contributions from separate segregated funds maintained by such organizations are permitted. However, Commission regulations forbid a separate segregated fund from use of a reverse check-off system in collecting contributions to the fund. Therefore, contributions derived from a reverse check-off system are not permissible under the Act. See 2 U.S.C. 441b, Advisory Opinion 1977-37 and 11 CFR 114.5(a). Thus, assuming compliance with 2 U.S.C. 432 and 433, in order for the Concerned Citizens for Kleczka to be designated, register and operate as a principal campaign committee it must identify the sources of cash on hand on the basis of last in, first "on hand." If any of the "on hand" funds consist of prohibited contributions, that amount must be excluded from the committee's account.

Accordingly, in your specific situation, any funds of the state committee which are determined to have been contributed by a labor organization's separate segregated fund that utilized a reverse check-off system may not be included in the cash on hand of the principal campaign committee or otherwise used in connection with an election to Federal office. Funds received from a national bank's "segregated fund" would not have to be excluded from the cash on hand of the principal campaign committee if that fund was a separate segregated fund established and operated in a manner that complied with the Act and Commission regulations. 2 U.S.C. 441b and 11 CFR 114 et seq.

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 (AO 1977-37)