



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 21, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-123

Mr. Armistead I. Selden
6444 Lily Dhu Lane
Falls Church, Virginia 22044

Dear Mr. Selden:

This is in response to your letter of October 16, 1980, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use of campaign funds for sending Christmas cards with a thank you note inside to a campaign staff.

Your letter states that there may be unused funds from your 1980 Senatorial campaign, and you wish to use these funds to send cards to your campaign staff thanking them for their services. You ask whether such use of these funds is permitted under the Act.

Commission records do not indicate that your campaign committee, Selden for Senate ("the Committee"), has filed a termination report. In past advisory opinions, the Commission has stated that candidates or their principal campaign committees have broad discretion under the Act in deciding which expenditures will best advance their political purposes. See Advisory Opinion 1978-2 (copy enclosed). In fact, noting the broad discretion afforded in making campaign expenditures, the Commission approved the sending of Christmas cards by a candidate with "costs charged against campaign expenses" in Advisory Opinion 1977-60. Hence, if the cards are sent to your staff prior to the Committee's filing of a termination report, the costs associated with doing so could be regarded as campaign expenditures properly made within the discretion of the Committee. Payments made by the Committee for the described purposes would be reportable disbursements under the Act and Commission regulations. 2 U.S.C. 434(b), 11 CFR 104.3(b).

However, if the Committee files a termination report prior to the cards being sent, the use of campaign funds for doing so would be subject to the restrictions of the Act on the use of excess campaign funds. The Act and Commission regulations provide that a candidate may use

excess campaign funds to defray ordinary and necessary expenses incurred by him in connection with his duties as a Federal officeholder, to make a contribution to any tax exempt organization described in 26 U.S.C. 501(c) or for any lawful purpose including transfers without limitation to any national, state, or local committee of a political party. However, such funds may not be converted to any personal use if the candidate involved was not a Member of Congress on January 8, 1980. 2 U.S.C. 439a and 11 CFR 113.2.

The Commission's regulations describe various purposes for which excess campaign funds may lawfully be expended, but are not exhaustive as to those purposes which are lawful. See Advisory Opinion 1978-95 (copy enclosed). Since a former candidate's thanking his staff for their assistance during the campaign is a direct consequence of ending a campaign, spending excess campaign funds to send thank you cards to a campaign staff is sufficiently campaign-related to avoid being a personal use of such funds. Rather, in the absence of any State law to the contrary, the described use of such funds would constitute a use of funds for a "lawful purpose" under 2 U.S.C. 439a and 11 CFR 113.2.

The Commission expresses no opinion as to possible Federal tax ramifications since those issues are within the jurisdiction of the Internal Revenue Service.

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 a specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Max L. Friedersdorf
Chairman for the
Federal Election Commission

Enclosures (AO 1978-2, 1978-95)