



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 22, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-126

James B. Ostmann, Esq.
Ogden and Coyle
1820 Jefferson Place, N.W.
Washington, D.C. 20036

Dear Mr. Ostmann:

This responds to your letter dated October 17, 1980, supplemented by your letter dated November 14, 1980, requesting an advisory opinion on the issue of whether your client, Mr. Warren Lewis, is a "political committee" under the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations.

The Act defines the term "political committee" to mean, in part, "any committee, club, association or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year...." 2 U.S.C. 431(4)(a); 11 CFR 100.5(a).

You state that earlier this year Mr. Lewis, intending to involve other persons as members of a committee, established a bank account in the name of "Independent Voters for a Republican Victory." Thereafter, Mr. Lewis sent out approximately 50 to 100 copies of a letter, a copy of which was attached to the request, to various individuals which letter encouraged independent voters to "counteract the propaganda put out by left-wing Democrats, labor unions and Carter-controlled congressmen..." by voting for all Republican candidates in the 1980 general election. Readers of the letter who felt that the work of "Independent Voters for a Republican Victory" should be continued, were encouraged to send their checks directly to "Independent Voters." This letter, marked Exhibit I, describes "Independent Voters" as a "National Committee."

Mr. Lewis, you state, also engaged in telephone solicitation of potential contributors through the use of a telephone answering service to raise funds in order to continue the work of "Independent Voters." The requestor has declined to supply the Commission with information

concerning the details of this telephone solicitation, particularly, how Mr. Lewis selected the names of persons he solicited and how many persons Mr. Lewis contacted in this manner.

The contributions which resulted from the solicitation in Exhibit I and from Mr. Lewis' telephone solicitation activity were used, you state, in the dissemination of a communication marked Exhibit II. This brochure encouraged voters who were dissatisfied with high inflation, government waste, and low stature of the United States in international matters to change administrations and vote Republican in 1980. Between 20,000 and 30,000 copies of Exhibit II were disseminated by mail and approximately 200,000 copies were distributed by hand in New York, New Jersey, Pennsylvania, Maryland and Virginia. Finally, you state that all decisions involving Independent Voters, including form and content of the exhibits were made by Mr. Lewis alone. In light of the factual situation presented by your request, you ask specifically for a Commission ruling as to whether or not Mr. Lewis' "Independent Voters" would be a "political committee" pursuant to 2 U.S.C. 431(4).

The Commission concludes that a "political committee" exists under the factual situation presented. The solicitation contained in Exhibit I, as well as the content of Exhibit II, describe the operation of an organization which solicits funds from a broad range of persons across the country which funds were used to advocate the election of all Republican candidates in the 1980 election. Solicitees were encouraged to send checks directly to "Independent Voters for a Republican Victory" to be deposited in a bank account established in that organization's name by Mr. Lewis.

Mr. Lewis has clearly reached beyond his personal funds and resources in the described activity to involve numerous contributors in the same activity. The operation described by the request does not involve the joint purchase by several individuals (each paying their respective shares of the purchase price directly to the vendor from personal funds) of printing or reproduction services to publish a brochure containing a message of election advocacy. Rather, what is described is the solicitation of funds from the general public which funds are used to influence the outcome of a Federal election pursuant to the decisions solely of Mr. Lewis.

The fact that Mr. Lewis was unable to induce others to join with him in the organizational decisionmaking which is a frequent characteristic of political committees does not alter the overall nature of the political activity engaged in. Mr. Lewis has held out the entity called "Independent Voters for a Republican Victory" as an on-going organization engaged in the making of expenditures to advocate the election of Republican candidates. All persons who were solicited for funds and responded with contributions are part of the organization called "Independent Voters". The request indicates that they divested themselves of control over any decisionmaking as to the making of expenditures when they made their contributions to "Independent Voters." In that manner they did, however, participate in the activities of that purported entity. These factors taken together indicate that Mr. Lewis and all contributors to "Independent Voters" come within the definition of a political committee as "any other group of persons." 2 U.S.C. 431(4)(A).

Since the request indicates that the funds raised and spent by Mr. Lewis were for the purpose of influencing a Federal election, and that in excess of \$1,000 was expended in that

regard, the Commission concludes on the factual situation presented that a political committee exists as defined by the Act. This political committee is subject to all applicable provisions of the Act including, but not limited to, the registration and reporting requirements of 2 U.S.C. 433, 434.

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)

John W. McGarry
Vice Chairman for the
Federal Election Commission