



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 26, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-143

Mr. Ray Mark, C.P.A.
Courter for Congress Committee
P.O. Box 1
Hackettstown, New Jersey 07840

Dear Mr. Mark:

This responds to your letter of December 12, 1980, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the assumption of a campaign debt outstanding from a candidate's earlier campaign committee by that candidate's current campaign committee.

According to your letter, the 1978 Courter for Congress Committee ("1978 Committee") carries a debt of \$58,000, all of which is owed to Congressman Courter. The 1978 Committee shows a cash balance of \$894.32. The Courter for Congress Committee - 1980 ("1980 Committee") has a cash balance of \$90,399.14 as of the 30 day post general election report. The 1980 Committee has no debts or obligations.

You explain that during the 1979 calendar year, the 1978 Committee engaged in fundraising activities in an attempt to eliminate its debt. A sizeable portion of the debt was paid. In early 1980, the 1980 committee registered in anticipation of Mr. Courter's intention to seek reelection. All fundraising during calendar year 1980 was conducted on behalf of the 1980 committee. In light of the financial situation of both committees you ask whether the 1980 Committee may assume the debt of the 1978 Committee.

The Commission is of the opinion that the 1980 Committee may assume the debt of the 1978 Committee. In past advisory opinions, specifically Advisory opinions 1980-43 and 1977-52, copies enclosed, the Commission stated that a candidate's campaign committee from a previous election could transfer its debts and obligations to that same candidate's current campaign committee. Once those are transferred, the earlier committee could terminate and the prior debts could be consolidated with the current campaign committee. This termination

assumes, of course, that there is either no cash on hand or that any cash on hand has also been transferred to the current committee. Moreover, since you explain that all monies raised in 1980 were raised on behalf of the 1980 election, it appears that the funds in the 1980 committee account are comprised of 1980 contributions. Since the 1980 committee has a surplus those funds used to retire the 1978 debt would not count against an individual's 1978 contribution limits.

In addition, 2 U.S.C. 439.a and Commission regulations at 113.2(d) permit the use of excess campaign funds for any "lawful purpose;" however, "any personal use" of the funds is prohibited if the individual candidate was not a member of Congress on January 8, 1980. As discussed in prior advisory opinions, for instance Advisory Opinion 1978-37, Commission regulations do not limit the transfer of funds between a candidate's current principal campaign committee and a previous campaign committee of that same candidate. 11 CFR 110.3(a)(2)(iv). Thus, it would be permissible for campaign funds in excess of amounts needed for expenditures of the 1980 Committee to be transferred to the 1978 Committee and used to retire the 1978 debt.

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 Warren McGarry
Chairman for the
Federal Election Commission

Enclosures