



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 16, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-49

Steven D. Weinstein
Station House - Suite 108
900 Haddon Avenue
Collingswood, New Jersey 08108

Dear Mr. Weinstein:

This responds to your letter of April 9, 1980, requesting an advisory opinion as a candidate for Federal office concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the use of campaign funds to defray a candidate's personal living expenses during a campaign.

You state that prior to the enactment of the 1979 Amendments to the Act, you asked whether campaign contributions could be used for ordinary and necessary personal living expenses of a candidate during a campaign and that you were referred to Advisory Opinion 1978-5 for guidance. That opinion expressed the Commission's position that payments by a candidate's campaign committee of the candidate's personal living expenses are permissible expenditures under the Act although subject to disclosure pursuant to 2 U.S.C. 434 and 11 CFR 104.2.

You ask whether the 1979 Amendments to the Act affect the use of campaign funds during the course of a campaign for personal living expenses of the candidate. You refer specifically to the prohibition contained in 439a on conversion of excess campaign funds to personal use with regard to candidates who were not holders of Federal office at the time the Amendments were effective, January 8, 1980.

The Commission concludes that the 1979 Amendments to the Act, specifically the provisions of 439a, do not affect the result reached in Advisory Opinion 1978-5. The

Commission has stated in several advisory opinions* that candidates and their respective principal campaign committees have wide discretion under the Act as to how campaign funds may be spent. The Commission thus concludes that so far as the Act is concerned your personal living expenses during the course of a campaign may be defrayed from your campaign funds. The issue of whether "excess campaign funds" may be used for the described purpose is not presented by your request and therefore, is not reached by the Commission.

The Commission expresses no opinion regarding possible tax ramifications, since those issues are outside the Commission's jurisdiction.

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)

Robert O. Tiernan
Chairman for the
Federal Election Commission

* Advisory Opinions 1980-29, 1978-5, 1978-2, 1977-1, 1976-64