



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 1, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-25

The Honorable William E. Dannemeyer
House of Representatives
Washington, D.C. 20515

Dear Congressman Dannemeyer:

This responds to your letter of May 15, 1981, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use of excess campaign funds.

Your letter states that at the present time, your campaign account has a surplus of "undesignated funds" (i.e., funds raised for campaign purposes but not restricted as to any particular use). You state that your practice is to return to California on the average of once every three weeks or not less frequently than once a month. You add that on half of those occasions, your wife accompanies you; and on such trips there are one or more events which it is anticipated that your wife "will attend as a part of continuing the representative relationship of the district in the House of Representatives." You ask whether these "undesignated funds" in your campaign account may be used to pay the transportation expenses of your wife from Washington, D.C., to Los Angeles and return.

Under the Act and Commission regulations, excess campaign funds may be used: to defray any ordinary and necessary expenses incurred in connection with an individual's duties as a holder of Federal office, may be contributed to an organization described in 26 U.S.C. 170(c), or may be used for any other lawful purpose, including transfers without limitation to any national, state, or local committee of any political party. 2 U.S.C. 439a and 11 CFR 113.2. The excess funds may not be converted by any person to any personal use (other than to defray certain expenses connected with duties as a Federal officeholder); however, because you were a member of Congress on January 8, 1980, that statutory prohibition does not apply. Accordingly, since the Act permits excess campaign funds to be used "for any other lawful purpose," in the absence of state or other law proscribing such use, the Commission concludes that nothing in the

Act or Commission regulations would prohibit the use of those funds to pay your wife's travel expenses.

The Commission observes that your request does not specifically indicate whether you regard the purpose of your wife's travel as connected with your duties as a Federal officeholder, or as personal, or as related to your 1982 campaign for Congress. Insofar as your wife's travel has an election-influencing purpose, the costs involved may be regarded as "expenditures" for purposes of the Act and Commission regulations. See 2 U.S.C. 431(9)(A). In that case, the issue of whether paying your wife's travel expenses is a permissible use of excess campaign funds would not arise since the funds being used are not "excess campaign funds" for purposes of 2 U.S.C. 439a. Compare Advisory Opinion 1981-2, copy enclosed. As the Commission has held in numerous advisory opinions, candidates or their principal campaign committees have broad discretion in deciding upon those expenditures which will best advance their political purposes. See, e.g., Advisory Opinion 1980-123, copy enclosed. Thus, as long as the costs associated with your wife's travel are properly reported by your campaign committee as expenditures, nothing in the Act or the regulations would limit or prohibit using such campaign funds for this purpose.

The Commission expresses no opinion as to the possible application of the rules of the House of Representatives to the situation described in your request, nor as to any tax ramifications, since those issues are outside its 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)

John Warren McGarry
Chairman for the
Federal Election Commission

Enclosure (AO 1981-2, 1980-123
(REICHE – Concurring Opinion)