



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 25, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-58

Honorable Don Edwards
House of Representatives
United States Congress
Washington, D.C. 20515

Dear Congressman Edwards:

This responds to your letter of December 18, 1981, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the use of campaign funds to pay legal fees incurred on behalf of candidates with regard to reapportionment.

You indicate in your request that the State of California is currently in litigation with "its House membership over the issue of reapportionment." The California House Democratic Delegation has hired a law firm to represent it and its members in various legal actions connected with that litigation. You ask whether campaign funds may be used to pay the legal fees incurred pursuant to that representation.

The Commission has stated on numerous occasions that candidates and their respective principal campaign committees have wide discretion under the Act concerning the use of campaign funds, provided such funds are used for lawful purposes. See Advisory Opinions 1980-49, 1980-29, 1978-5, 1978-2, 1977-1, and 1976-64 (copies enclosed). Accordingly, campaign funds may be used to pay legal fees incurred during reapportionment litigation.

In Advisory Opinion 1981-35 (copy enclosed), the Commission stated that the financing of litigation (and lobbying) relating to reapportionment is not an election-influencing activity subject to the requirements of the Act. However, campaign funds of a principal (or other authorized) campaign committee that are used to pay legal fees relating to reapportionment are subject to the reporting requirements of the Act. While not "expenditures" within the meaning of

2 U.S.C. 431(9)(A) and 11 CFR 100.8(a)(1),* such payments do constitute "disbursements" and must be disclosed pursuant to 2 U.S.C. 434(b) and 11 CFR 104.3(b)(4)(vi).

The Commission expresses no opinion regarding possible tax ramifications, or the application of House rules to the described transaction, as 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,

(signed)

Frank R. Reiche
Chairman for the
Federal Election Commission

Enclosures (AOs 1981-35, 1980-49, 1980-29, 1978-5, 1978-2, 1977-1 and 1976-64)

* As the Commission has determined that litigation relating to reapportionment is not an election-influencing activity, the use of campaign funds to pay legal fees relating to such litigation would not constitute an "expenditure" because an expenditure must be made "for the purpose of influencing any election for federal office." See 2 U.S.C. 431(9)(A) and 11 CFR 100.8(a)(1).