



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

February 5, 1982

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-1

Honorable James J. Florio  
House of Representatives  
1740 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Florio:

This responds to your letter of December 18, 1981, supplemented by your letter of January 5, 1982, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the transfer of funds from your 1982 House of Representatives Campaign Committee ("House Committee") to your 1982 Senate Campaign Committee ("Senate Committee").

You state in your request that you are presently a candidate for the House of Representatives, and that your only campaign committee, the James J. Florio Campaign Fund, has filed with the Clerk of the House of Representatives.<sup>1</sup> You further indicate that you are considering declaring your candidacy for the 1982 Senatorial election sometime prior to the April filing deadline. At that time you would terminate your filing status with the Clerk of the House and file, possibly under the same committee name, with the Secretary of the Senate. Under those circumstances, you ask whether you may transfer all of the funds collected by your House Committee to your Senate Committee.

Nothing in the Act or the Commission's regulations limits the transfer of funds between the principal campaign committees of the same individual who is a candidate for the House of Representatives and the Senate during the same election cycle so long as the transfer is made

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<sup>1</sup> Your request indicates that your 1980 principal campaign committee has no surplus funds, therefore, the transfer of such funds is not addressed here.

when the candidate is "not actively seeking"<sup>2</sup> nomination or election to more than one office, and the limitations on contributions by persons are not exceeded by the transfer. See 11 CFR 110.3(a)(2)(v) and 110.1(f); see also Advisory Opinion 1979-51 (copy enclosed).

To ensure that contribution limitations are not exceeded, the contributions making up the transfer shall be reviewed on a "last in, first transferred" basis, beginning with the last contribution received and working back until the amount to be transferred is reached. Should the review indicate that any contribution to the House Committee, when added to the same contributor's contribution to the Senate Committee, exceeds the applicable limitation set forth in 441a; the transfer shall be reduced by the amount in excess of the limitation. See 2 U.S.C. 441a and 11 CFR 110.3(a)(2)(v)(B). In addition, once the House Committee has liquidated all debts and expenses, it should file a termination report with the Commission. See 11 CFR 102.3(b). The report should refer to the impending transfer of the remaining funds as a "transfer out" to the Senate Committee.

If this procedure is followed, and the Senate Committee reports funds received from the House Committee as contributions received from the original contributors, the Commission concludes that the House Committee may lawfully transfer all its funds to the Senate Committee. See 11 CFR 104.12.

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 P. Reiche  
Chairman for the Federal Election Commission

Enclosure (Advisory Opinion 1979-51)

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<sup>2</sup> "Not actively seeking" means a principal campaign committee has filed a termination report with the Commission, or has notified the Commission that the candidate and his authorized committees will make no further expenditures, except in connection with the retirement of debts outstanding at the time of the notification. See 11 CFR 110.3(a)(2)(v)(A).