



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

April 23, 1982

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-23

Michael R. Edelman  
Treasurer  
Westchester Citizens for Good Government  
20 South Broadway  
Yonkers, New York 10701

Dear Mr. Edelman:

This responds to your letter of March 17, 1982, requesting an advisory opinion on behalf of the Westchester Citizens for Good Government ("the Committee") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to whether a political committee can earmark a \$3,800 contribution through a local party committee to a Federal candidate.

In your request you state that the Committee was originally organized, and registered with the Commission, in 1981 to make independent expenditures advocating the defeat of "certain incumbent Congressmen in Westchester County." However, the Committee made no substantial expenditures in this regard and would like to terminate its activity while simultaneously contributing its remaining funds (approximately \$3,800) to the Westchester County Republican Committee<sup>1</sup> "to be used by its candidate in the 24th Congressional District" of New York. The Commission understands from your request that the Committee proposes to make a general election contribution on behalf of the congressional candidate, presently unidentified, who receives the 1982 Republican nomination for the 24th Congressional District of New York.

The contribution limitations in 2 U.S.C. 441a would permit the Committee to contribute \$1,000 with respect to the general election of any candidate for Federal office. See 11 CFR 110.1 for the rules applicable to contributions made with respect to any election. The Commission's regulations permit the Committee to earmark or otherwise direct its contribution through an

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<sup>1</sup> The Westchester County Republican Committee is a local party committee not registered with the Commission.

intermediary or conduit to a candidate for Federal office. See 11 CFR 110.6. The earmarked contribution is attributed to the Committee and not to any intermediary provided that the intermediary exercises no direction or control over the Committee's designation of the recipient candidate. If any control of the contribution decision is exercised by the intermediary, then the contribution is attributed to both the intermediary and the original contributor's contribution limitations. In the present case, the Committee may earmark a maximum of \$1,000 through the Westchester County Republican Party Committee for the general election campaign of the 1982 Republican congressional candidate in that district. Additionally, if permitted by state law, the Committee could contribute its entire \$3,800 to the local party committee, or for any other lawful purpose, provided that no more than \$1,000 was earmarked for any one Federal candidate.

The Commission has allowed a contribution to be earmarked for an undetermined Federal candidate where the facts indicated that the candidate was identifiable as to specific office, party affiliation, and election cycle. In Advisory Opinion 1977-16 (copy enclosed), the Commission permitted a search committee to form, accept contributions and make expenditures on behalf of a candidate not yet in existence. Therefore, the Committee may earmark, and the local party committee may act as intermediary,<sup>2</sup> a general election contribution not in excess of \$1,000 for the 1982 Republican candidate in the 24th District. If the Committee chooses to earmark up to \$1,000 for the Republican candidate in the 24th Congressional District, it could use its remaining funds for any lawful purpose. In addition, the Committee may disburse its remaining funds and terminate in the same report. See 11 CFR 102.3.

The Commission expresses no opinion as to the application of any New York State Statute in the event that the Committee makes contributions that are not subject to the limits of the Act and regulations, since an opinion on such a statute is beyond 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 by your request. See 2 U.S.C. 437f.

Sincerely,

(signed)

Frank P. Reiche  
Chairman for the Federal Election Commission

Enclosure (AO 1977-16)

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<sup>2</sup> The time limits for transferring contributions by the intermediary to the intended recipient would be suspended until the name of the candidate is known. See 11 CFR 102.8.

