



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 20, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-31

Eric S. Koenig
33 Washington Square West, #521
New York, New York 10011

Dear Mr. Koenig:

This responds to your letter dated April 7, 1982, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a summer internship program established by the Root-Tilden Program at the New York University School of Law in which you intend to participate.

In your request, you state that you are a law student at the New York University School of Law. You state that you are a Root-Tilden Scholar, a program at the law school designed to encourage public service-public interest activities. As part of the Root-Tilden program you receive a summer internship stipend of up to \$220 per week to do public service-public interest legal work. While the scholarship's funds are tax-exempt, you must personally report the support as income and allow for appropriate deductions for taxes, social security, etc.

You state that the LaRocco for Congress Committee ("the Committee") in Boise, Idaho, has offered you a summer internship to provide legal and accounting services for the campaign. In the past, Root-Tilden scholarship funds have supported student summer internships in government agencies, on Congressional Committees, and with individual Senators and Representatives. The Director of the Root-Tilden Program believes that the internship proposed by the LaRocco Committee meets the purposes of the Root-Tilden Program. The Committee has offered to pay you \$50 per week, which is the most that it could afford to pay. Because the Root-Tilden scholarship money does not serve as a substitute source of funds for any employer, your Root-Tilden stipend will correspondingly be reduced from \$220 to \$170 per week. Without the Root-Tilden stipend, you would be unable to accept the internship with the Committee.

The specific question posed in your request is whether you may, consistent with the Act, provide legal and accounting services to the Committee while you are receiving the Root-Tilden stipend. The Commission concludes that you may provide such services to the Committee while receiving the Root-Tilden monies, subject to the conditions noted below.

The Act provides that the term "contribution" includes the "payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose." 2 U.S.C. 431(8)(A)(ii). However, the Act specifically exempts from the definitions of "contribution" or "expenditure" any legal or accounting services rendered to or on behalf of an authorized committee of a candidate or other political committee, so long as (1) the person paying for such services is the regular employer of the individual rendering the services, and (2) such services are solely for the purpose of ensuring compliance with the Act. See 2 U.S.C. 431(8)(B)(ix)(II), 431(9)(B)(vii)(II); see also 11 CFR 100.7(b)(14), 100.8(b)(15). Commission regulations make it clear that this exemption applies with equal force where the employer is a corporation or labor organization. See 11 CFR 114.1(a)(2)(vii).

Thus, the question becomes whether the Root-Tilden summer internship is your "regular employer" within the meaning of the legal and accounting services exception. While the Act and regulations do not define the term "regular employer", the legislative history indicates that Congress intended this requirement to preclude third parties from paying an individual to render such services where no employment relationship would otherwise exist but for the pendency of the campaign. As Senator Clark explained:

It is clear that the committee's intent was to exempt certain specified legal and accounting services from the contribution and expenditure limits in the Act. However, it was certainly not the committee's intent to allow outside individuals and groups to pick up the tab for these services. My amendment would simply clarify that point.

See 122 Cong. Rec. S3695 (daily ed. March 17, 1976) (remarks of Sen. Clark). Here, the summer internship has the usual attributes of a regular employment relationship between you and the Root-Tilden program: you would receive the stipend whether you worked for the LaRocca Committee or for some other organization that met the program's criteria. Moreover, the fact that the stipend is taxed as income to you reflects the essentially remunerative character of your relationship with the summer internship program. Compare Advisory Opinion 1979-67, copy enclosed, particularly concurring opinion. See also Advisory Opinion 1975-100, copy enclosed.

The legal and accounting services exception would, therefore, apply to the internship and no contribution or expenditure would result to the LaRocca Committee by either you or the Root-Tilden program. However, to remain within the exception, your duties must be confined to legal and accounting services solely for the purpose of ensuring compliance with the Act. Moreover, the Committee must report the amounts paid by the Root-Tilden program to you for these legal and accounting services in accordance with 2 U.S.C. 431(8)(B)(ix) and 434(b). See also 11 CFR 104.3(h). These foregoing restrictions would apply, however, only to the extent that the Root-Tilden program compensates you. Because the Committee is paying you \$50 per week, the Act

would not limit your ability to spend a proportionate amount of your time providing services to the Committee other than legal and accounting services solely for the purpose of ensuring compliance with the Act. */ The Commission also notes that a contribution would not result if you volunteer your services to the Committee and receive no compensation from the Committee or any other person for those volunteer services. See 2 U.S.C. 431(8)(B)(i).

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)

Frank P. Reiche
Chairman for the Federal Election Commission

Enclosures (AOs 1979-67 and 1975-100)

* Thus, for example, if you would ordinarily work 40 hours per week for the Committee at a rate of \$220 per week, \$170 of which was paid by the Root-Tilden stipend, then you would be required to spend approximately 31 of those hours performing legal and accounting services solely for the purpose of ensuring compliance with the Act (i.e., 170/220: 31/40). The remaining approximately 9 hours could be spent on any other type of work that you, the Committee and the Root-Tilden program deem appropriate.