



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 19, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-50

Mr. Jon L. Shebel
6400 Jamaica Court
Tallahassee, Florida 32308

Dear Mr. Shebel:

This responds to your letters of August 11, 1982 and September 22, 1982, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the formation and operation of an organization which would sponsor breakfast or luncheon sessions with members of Congress.

Your letter of August 11th states that you along with a group of other individuals have previously made individual campaign contributions to Congressional candidates who are members of the "Florida Congressional Delegation." You and these other individuals now desire to establish a "Breakfast and Lunch Club" in Washington, D.C. You add that you would personally register a trade name for the Club and print stationery for it under the name of the Florida Breakfast and Lunch Bunch ("BLB"). Other individuals would be invited by you to attend a breakfast or luncheon session with one of their Florida Congressmen or Senators. At such an event the Congressman or Senator would be provided the opportunity to speak to the individuals who are present; and at the close of the breakfast or lunch, those individuals who desire to make a campaign contribution would have an opportunity to do so. Your letter of September 22, explains that anyone interested in hearing the featured speaker for a BLB sponsored event would be welcome to attend and that there would be no requirement that a contribution be made by the attendee. Any contribution made at the event would be presented individually, and there would be no pooling of individual contributions for presentment to the featured speaker/candidate.

The cost of registering the BLB trade name and printing its stationery would be paid by you. In addition, you would pay the initial cost of each breakfast or lunch from your personal account, and subsequently invoice those persons who choose to attend for the cost of their own meal. You note that while the featured speaker's meal would be paid for, the speaker will not be paid a fee

for attending the lunch. You will select the members of Congress who are invited to attend and speak at a BLB function. Finally, you state that there will be no membership fee imposed on those persons invited to attend a BLB sponsored event, and that BLB will not maintain any bank account nor collect any funds in its own name. You ask whether the described activity is permissible under the Act.

While the formation and operation of BLB is permitted under the Act, your request raises the issue of whether BLB is a political committee for purposes of the Act's registration and reporting requirements, as well as the contribution limitations.

The term "political committee" is defined to mean "any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year." 2 U.S.C. 431(4)(A). The definitions of "contribution" and "expenditure" indicate that "the purpose of influencing any election for Federal office" must be present if the making of any gift, loan, advance, purchase, or payment is to be considered as either a contribution or expenditure. 2 U.S.C. 431(8), (9).

In determining whether payments made for an event sponsored by a group and involving the active participation of a candidate for Federal office, are expenditures or contributions under the Act, the Commission has considered the nature and purposes of the event. The Commission has stated in such cases that so long as the event does not involve (i) the solicitation of political contributions, or (ii) the express advocacy of a candidate's election or defeat, then the event would not be viewed as a campaign event for the purpose of influencing a Federal election. If an event is not conducted and financed for an election influencing purpose, payment of costs would not represent contributions to the candidate who is present. Advisory Opinion 1978-4 (testimonial dinner for Member of Congress); Advisory Opinion 1980-89 (reception incident to duties as Federal officeholder); Advisory Opinion 1981-26 (social occasion involving Member of Congress); and Advisory Opinion 1981-37 (participation of a Congressman in a television forum).

The participants in a BLB event will have been apprised before the event that they will have an opportunity to make a contribution to the featured candidate/speaker. The communication of this information to participants in a BLB event is tantamount to the making of a solicitation. See, e.g., Advisory Opinion 1977-25, copy enclosed. In view of the aforementioned advisory opinions, therefore, the making of such a solicitation by you or BLB would cause the event to be characterized as a campaign event whether the solicitation is made in the invitation to attend, at the breakfast or lunch itself, or in any discussion by participants in connection with the organization of either BLB or a particular BLB event. Payments to finance such a campaign event would be viewed as being made for the purpose of influencing a Federal election and would be expenditures by BLB since BLB is the named sponsor or host of the event. A corresponding contribution in-kind to the featured candidate by BLB would also result. 11 CFR 100.7(a)(1)(iii). The same result would follow if the event included any communication expressly advocating any Federal candidate's election or defeat.

If BLB's expenditures or contributions are in excess of \$1,000 in a calendar year, then BLB would be a political committee under the Act. As such BLB would be subject to the Act's disclosure requirements, as well as its contribution prohibitions and limitations. See 2 U.S.C. 431(4), 432, 433, 434, and 441a, 441b, 441c, and 441e. In particular, BLB would be required to establish a separate bank account to be used to finance BLB campaign events. See, 2 U.S.C. 432(h) and 11 CFR Parts 102 and 103.

In the event that BLB attains political committee status, the expenses you incur for BLB's general operation-- for example, stationery, printing, invitations, mailings, etc.-- would be contributions by you to BLB. 11 CFR 100.7(a)(1)(iii). Moreover, amounts paid by individuals for the meal furnished at any BLB event that qualified as a campaign or political event, would be contributions to BLB whether paid to you, to BLB, or to the commercial vendor where the event is held. 11 CFR 100.7(a)(2).

It is important to note that the mere fact that BLB might become a political committee under these circumstances in no way precludes BLB from undertaking to sponsor the described events. BLB is free to sponsor the described events without attaining political committee status provided such events do not include solicitations for contributions. If BLB is not a political committee, it would not be required to register and file reports with the Commission.

The Commission expresses no opinion as to the applicability, if any, of House or Senate Rules to the situation described in your request since those issues are outside its jurisdiction.

This 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 1977-25, 1978-4, 1981-26, 1981-37, and 1980-89)