



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 10, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-6

Thomas O. Miller
General Manager
Jacksonville Hilton
565 South Main Street
Jacksonville, Florida 32207

Dear Mr. Miller:

This responds to your letter of January 26, 1983, requesting an advisory opinion with respect to application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposed payment by the Jacksonville Hilton hotel to a local party organization in order to adjust a disputed debt arising from a banquet held at the hotel.

This advisory opinion request was made on behalf of Hilton Hotels Corporation, as agent for Transamerica Realty Investors, d/b/a/ Jacksonville Hilton ("the hotel"). You state that the Duval County Democratic Women's Club ("the club") made arrangements with the hotel for a banquet to be held on August 20, 1982. You further state that the purpose of the banquet was strictly social, and that it was not held in connection with any Federal election or political fund-raising efforts. You note that the club is not a registered political committee for purposes of either the Act or Florida statutes.

According to your request, a dispute arose over the number of dinners guaranteed by the club. The hotel maintains that the club guaranteed payment for at least 120 dinners, while the club claims that it guaranteed payment for only 100 dinners. No guarantees were made in writing. You state that the club paid for 125 dinners on the night of the banquet, even though only 82 guests attended. Finally, you note that in the interest of maintaining good will in the community, the hotel has agreed to settle the dispute by charging the club for 110 dinners. This settlement will require a repayment by the hotel to the club in the amount of \$179.09. You ask whether such a transaction is permissible under the Act and Commission regulations.

Under 2 U.S.C. 441b, it is unlawful for any corporation to make a contribution or expenditure in connection with any Federal election. In the situation you describe, however, the banquet in question was a social event and was not held in connection with any Federal election. In several advisory opinions the Commission has indicated that the prohibitions of 2 U.S.C. 441b do not apply to contributions or expenditures made by state chartered corporations in connection with State or local elections rather than Federal elections. See Advisory Opinions 1981-61, 1981-49, 1980-7, and compare Advisory Opinion 1980-54, copies enclosed. Accordingly, the Commission concludes that the hotel's payment to the club in the amount of \$179.09 would not be considered a contribution or expenditure in connection with a Federal election and would, therefore, be permissible under the Act and Commission regulations. See 2 U.S.C. 431(8), 431(9), and 441b; also, 11 CFR 114.2(b).*

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 yours,

(signed)

Danny L. McDonald
Chairman for the Federal Election Commission

Enclosures (AOs 1981-61, 1981-49, 1980-54, 1980-7 and 1980-114)

* The Commission notes that this opinion does not preclude payments by corporate vendors to political committees where such payments are proper rebates, refunds, or are otherwise made in settlement of a disputed claim between the vendor corporation and political committee, assuming the payments are made on a commercially reasonable basis and in the ordinary course of the corporation's business. See Advisory Opinion 1980-114, copy enclosed.