



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 14, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-14

James B. Keegan, Treasurer
Second Congressional Boosters
P.O. Box 1968
Santa Rosa, California 95403

Dear Mr. Keegan:

This responds to your letter of April 22, 1983, on behalf of the Congressional Boosters for Don Clausen ("Boosters") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use of surplus campaign funds by Boosters.

Your letter states that Boosters was the principal campaign committee for Congressman Don Clausen during the 1982 election. You add that there are funds¹ remaining from the campaign, although Mr. Clausen was not reelected in his 1982 campaign. You inquire as to the permissible ways Boosters may dispose of these funds, and specifically whether it would be legal under the Act to transfer the funds to a new principal campaign committee ("PCC") for the 1984 Republican congressional candidate in the same congressional district previously represented by Mr. Clausen. In addition, you inquire whether you may transfer the excess funds to a "Federal PAC" which, presumably, would support more than one candidate for Federal office.

The Commission concludes that the Boosters may not transfer (or contribute) all its funds to the PCC established for the 1984 Republican congressional candidate from Mr. Clausen's former district. It may, however, make a limited contribution to the PCC and to any existing "Federal PAC." It may also make unlimited contributions to any political party committee.

¹ Commission records indicate that as of December 31, 1982, the Committee had a cash-on-hand balance of \$75,136.01 with no outstanding debts or obligations.

Under the Act, excess campaign funds may be used for any lawful purpose including transfers, without limitation, to any national, State or local committee of a political party.² 2 U.S.C. 439a and 11 CFR 113.2. While Boosters may make unlimited transfers of its funds to a national, State or local committee of a political party, the proposed "PCC" to support the 1984 Republican candidate in Mr. Clausen's former district would not come within the category of a political party committee. Commission regulations define the term "party committee" as a political committee which, by virtue of the political party's bylaws, represents a political party and is part of the official party structure at the national, State, or local level. 11 CFR 100.5(e)(4), 100.14, and 100.15.

Since Boosters is a "person" as defined by 2 U.S.C. 431(11), any transfers of funds by it to any nonparty political committee, including the PCC, would be contributions and thus subject to the Act's contribution limitations. See, 2 U.S.C. 441a(a)(1) and 11 CFR 110.1. See also, Advisory Opinion 1981-15, copy enclosed. The applicable contribution limit would be \$1,000 per election to the PCC of the 1984 candidate. On the other hand, if the Boosters intend to transfer the excess funds to a "Federal PAC," such a transfer would, for the reasons discussed above, constitute a contribution and would be subject to the Act's limitations on such contributions of \$5,000 per calendar year. See, 2 U.S.C. 441a(a)(1)(C) and 11 CFR 110.1(c).

The Commission notes that Boosters may itself, under the Act, convert its status to that of a multicandidate committee. See Advisory Opinions 1978-86 and 1982-32, copies enclosed; also see 2 U.S.C. 441a(a)(4) and 11 CFR 100.5(e)(3). Under the Act, a multicandidate political committee means a political committee which has been registered under 2 U.S.C. 433 for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to five or more candidates for Federal office. If Boosters so qualifies as a multicandidate committee, its limit with respect to contributions to candidates and their authorized committees would increase from \$1,000 per election to \$5,000 per election. 2 U.S.C. 441a(a)(2)(A). The cited 441a(a)(2) also sets forth other limits on contributions made by multicandidate political committees.

Finally, under the Act, Boosters may also contribute any or all of its excess campaign funds to a charitable organization described in 26 U.S.C. 170(c).

The Commission expresses no opinion as to possible tax consequences from Boosters disposition of its funds, since those issues, if any, are outside its jurisdiction.

² Because Mr. Clausen was a member of Congress on January 8, 1980, the prohibition against the personal use by him of the Committee's excess campaign funds is not applicable. 2 U.S.C. 439a.

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)

Danny L. McDonald
Chairman for the Federal Election Commission

Enclosures (AOs 1982-32, 1981-15, 1978-86)