



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

September 20, 1983

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-21

Honorable Gerry E. Studds  
United States House of Representatives  
Washington, D.C. 20515

Dear Representative Studds:

This responds to your letter of August 10, 1983, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended, to the establishment of a legal defense fund.

Your letter states that several individuals and organizations have expressed an interest in assisting you in the payment of legal expenses incurred by you in connection with an investigation conducted by the House Committee on Standards of Official Conduct and action taken by the full House of Representatives. You state that you retained counsel regarding these matters in 1982 and that as of July 15, 1983, your total bill for legal services and other disbursements had reached \$40,309.52. You add that you have paid \$10,000 of this obligation with your personal funds, but are unable to make prompt remittance on the remainder of the bill. You also note that you anticipate some further legal expenses in connection with these matters.

You have enclosed with your letter a proposed draft of "The Gerry E. Studds Legal Services Trust" ("the Trust"). According to this document, the purpose of the Trust is:

to pay the necessary and appropriate expenses incurred by the Trustor [Representative Studds] and his authorized staff members resulting from any allegations, charges or actions that have arisen or may arise in judicial, civil, criminal, administrative, State, Federal or Congressional proceedings or inquiries involving or concerning him or his authorized staff members or requiring his or their response thereto and arising out of any matter whatsoever....

Under the agreement, the Trust is also empowered "[t]o receive any donation from any source, so long as the donation would not violate any rule of the United States House of Representatives, any Federal or state statute or any administrative regulation of any Federal or state agency." Under these circumstances, you have asked whether donations to and disbursements from the Trust would be subject to the Act and Commission regulations.

Under the Act, a "contribution" is defined as a gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. 431(8). Similarly, the term "expenditure" is defined in an identical fashion as relating to payments made for the purpose of influencing a person's nomination or election to Federal office. 2 U.S.C. 431(9).

The Commission concludes that to the extent the proposed trust fund is used exclusively for the purpose of paying the costs of your legal defense arising from Congressional or other proceedings not involving compliance or audit matters under the Act, donations to and disbursements from the Trust would not constitute contributions or expenditures under the Act. See Advisory Opinions 1981-13 and 1979-37, copies enclosed. Accordingly, neither the source nor the amount of donations to the Trust would be limited under the Act or Commission regulations. Nor would the Act or regulations require any reporting of receipts or payments of the Trust. In reaching this conclusion the Commission also assumes that none of the residual funds, upon dissolution of the Trust, will be distributed or transferred to your campaign committee or any other political committee.

The Commission expresses no opinion regarding the applicability of any other Federal or State statute, nor regarding possible application of the rules of the House of Representatives, to the establishment and use of the Trust. Nor does the Commission express any opinion regarding any Federal or other tax ramifications, since these issues are not within 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 in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Danny L. McDonald  
Chairman for the Federal Election Commission

Enclosures (AO 1981-13 and 1979-37)