



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 5, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-39

Nina Guinn, Treasurer
Friends of Bob Krueger Committee
P.O. Box 911
New Braunfels, Texas 78130

Dear Ms. Guinn:

This responds to your letter of October 10, 1983 requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the use of funds collected by the Friends of Bob Krueger Committee ("the Committee") for a possible runoff election in 1984.

Your request indicates that various individuals have proposed to contribute \$3,000 with respect to Mr. Krueger's candidacy for the United States Senate.¹ Such contributions would be made: \$1,000 for the 1984 primary election, \$1,000 for a possible 1984 runoff election, if needed, and \$1,000 for the 1984 general election. You state that if a runoff election is not needed, the money would then be applied, "by the contributor's request," to the 1978 primary election or the 1978 general election debt.² You further explain that if the individuals have previously contributed the

¹ Commission records indicate that Mr. Krueger has filed a Statement of Candidacy and a Statement of Organization for a principal campaign committee with respect to 1984 elections.

² Mr. Krueger was a candidate for the United States Senate in the 1978 election cycle. Reports filed with the Commission show that his 1978 principal campaign committee had outstanding debts of \$18,000 for the primary election and \$149,628 for the general election as of June 30, 1983. The Committee reports also show a balance of \$3,078 cash-on-hand for the 1978 primary and a balance of \$4,881.41 cash-on-hand for the 1978 general election as of that date. An amended Statement of Organization filed at the Commission indicates that Mr. Krueger's 1978 principal campaign committee is called, "Friends of Bob Krueger '78 Committee".

maximum allowable amounts in the 1978 and 1984 elections, their contributions would be refunded after the 1984 primary.

Under the Act, individuals may make an otherwise lawful contribution to a candidate for Federal office in an amount not in excess of \$1,000 with respect to any election. 2 U.S.C. 441a(a)(1)(A). The term "election" is defined in 2 U.S.C. 431(1) to include a general, primary, or runoff election. Commission regulations further provide that a contribution made before a primary election may be designated for the general election. 11 CFR 102.9(e). In addition, the Commission has held that a contribution designated for a possible runoff election may be made before the necessity of a runoff election is determined, provided that such runoff election contributions are separately accounted for and are returned to the donors in the event that no runoff election is held. Advisory Opinion 1980-68, see also Advisory Opinions 1982-49 and 1980-122, copies enclosed.

Accordingly, the Commission concludes that the Committee may currently accept and designate otherwise lawful contributions for a 1984 runoff election, subject to the redesignation, or refund, of such contributions if there is no runoff election, or if Mr. Krueger is not a candidate in the runoff election. If Mr. Krueger is not such a candidate, and if contributors with respect to a 1984 runoff election have, as stated in your request, "by the contributor's request," authorized redesignation of their contributions for the 1978 primary or general election, their runoff election contributions may be applied to either or both of the 1978 election debts. The redesignation may only be made to the extent those contributors have not at any previous time exhausted their contribution limits with respect to the respective 1978 primary and general elections. Similar redesignations would have to be made with respect to 1984 general election contributions received by the Committee, if Mr. Krueger is not a candidate in the 1984 general election, and provided that such redesignated contributions are within the contributor's 1978 election limits.

Commission regulations provide that contributions made to retire debts and obligations outstanding from a previous election (held in 1975 or later) are subject to the limits of 2 U.S.C. 441a(a) to the same extent as if made before such election. 11 CFR 110.1(g)(2). Moreover, designations of contributions for debt retirement may only be made to the extent of the outstanding debts. 11 CFR 110.1(a)(2). To the extent contributors to the 1984 runoff have exhausted their contribution limits for the 1978 elections, their contributions for the runoff election must be refunded to them, when and if it becomes apparent that Mr. Krueger will not be a candidate in a 1984 runoff election. Similar refunds would have to be made with respect to general election contributions by contributors who have exhausted their 1978 limits, if Mr. Krueger is not a candidate in the 1984 general election. See the advisory opinions cited above.

This response constitutes an advisory opinion concerning the 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's 1982-49, 1980-122 and 1980-68)