



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 5, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-40

The Honorable Robert Dole
United States Senate
Washington, D.C. 20510

Dear Senator Dole:

This responds to your letter of November 16, 1983, requesting an advisory opinion with respect to application of the Federal Election Campaign Act of 1971, as amended ("the Act"), concerning Campaign America's proposed payment for a non-political advertisement that includes your picture and other information.

You state that the Kansas Republican Party plans to publish a 1984 directory of all Republican elected officials in Kansas at the Federal, State, and local levels. You further state that to pay for the publication of this directory "the Kansas Republican Party is soliciting advertisements from (among others) elected officials to be included in the directory." Some of these elected officials may use funds from their principal campaign committees to pay for their advertisements "which will presumably be campaign oriented." The advertisement you propose to submit for the directory would, however, include a "non-political" greeting, your picture, and a listing of your Senate offices in Kansas.

You ask whether Campaign America, a multi-candidate political action committee of which you are the Honorary Chairman, may pay for the advertisement on your behalf? You also ask whether the ad must include a statement indicating that it was paid for by Campaign America?

The Act and Commission regulations define the terms "contribution" and "expenditure" to include the gift, payment, or purchase of anything of value for the purpose of influencing any election for Federal office. 2 U.S.C. 431(8)(A), 431(9)(A). The regulations further explain that anything of value covers any goods or services, including advertising services, that are provided for the purpose of influencing a Federal election. 11 CFR 100.7(a)(1)(iii)(A).

Your request indicates that the advertisement you propose to submit for publication will contain a "nonpolitical greeting" from you, your photograph, and information giving the locations of your Senate offices in Kansas. In view of your statement describing the advertisement, and the fact that it will identify you as an incumbent United States Senator but not as a candidate* for reelection in 1986, the Commission concludes that payment for the advertisement by Campaign America would be for the purpose of supporting your activities as a Federal officeholder, and not for the purpose of influencing your nomination or election to Federal office. 2 U.S.C. 439a; 11 CFR 113.1, 113.2. Accordingly, while Campaign America must report the payment, listing its purpose and identifying the payee if it exceeds \$200, it would not be a contribution with respect to your 1986 candidacy. See 2 U.S.C. 434(b)(6)(B)(v), 11 CFR 104.3(b)(3)(ix).

With respect to your question whether the proposed advertisement needs to include a statement that it was paid for by Campaign America, the Commission concludes that such a statement is not required by the Act or Commission regulations. Statements of sponsorship and authorization are only required under the Act with respect to certain public political advertisements that expressly advocate the election or defeat of a clearly identified candidate, or that solicit contributions on behalf of a candidate or a political committee. 2 U.S.C. 441d, 11 CFR 110.11. According to your request, the advertisement in question will not contain either type of message.

The Commission expresses no opinion as to the applicability, if any, of United States Senate Rules to the situation described in your request, since those issues are outside its jurisdiction. Nor does this opinion address the issue whether payments by Campaign America would be contributions to the Kansas Republican Party. See 11 CFR 102.5 and Advisory Opinion 1981-3, copy enclosed.

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)

Lee Ann Elliott
Chairman for the Federal Election Commission

Enclosure (AO 1981-3)

* By letter dated December 5, 1983, you have reauthorized the 1980 Dole for Senate Committee as your principal campaign committee for a 1986 Senate candidacy, since contributions exceeding \$5,000 have been received on your behalf after the 1980 general election. You further state, however, that you have not decided upon a "formal candidacy" at this time.