



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 26, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-45

Mr. Harry Kresky
Kresky, Sinawski & Hollenberg
160 Broadway
New York, New York 10038

Dear Mr. Kresky:

This responds to your letters dated December 7, 1983 and January 18, 1984, requesting an advisory opinion on behalf of Dennis Serrette, a 1984 presidential candidate, with respect to application of the Presidential Primary Matching Payment Account Act ("Matching Payment Act").

Your first letter indicates that Mr. Serrette is seeking nomination as the 1984 presidential candidate of the Peace and Freedom Party in California, and of the Consumer Party in Pennsylvania, Delaware, Maryland, and several other states. His Principal campaign committee, Consumers for Dennis Serrette, also proposes to receive contributions that will be solicited and collected "on street-corners and in public places." Contributions may also be collected and expenditures made in states where a "primary election" is not held with respect to Mr. Serrette's candidacy. Your initial letter posed three questions with respect to Mr. Serrette's candidacy and certain fundraising procedures proposed by his committee. However, by letter dated January 18, 1984, you have withdrawn two of these questions.

Your request indicates that Mr. Serrette's campaign will be soliciting and accepting contributions in contemplation of submitting them to establish eligibility and entitlement to Federal matching payments under the Matching Payment Act. You have proposed a draft order and voucher-type procedure for collecting contributions of currency and converting them into contributions made by written instrument. The procedure would permit a person who makes a contribution of currency to the Serrette campaign to authorize the preparation of a written draft instrument. This draft would be issued by a partnership, created only for this purpose, and would be made payable to the order of the Serrette principal campaign committee. The contributor would also sign a

brief statement indicating the amount of his or her currency contribution and that it was made via a specific numbered draft issued by the partnership. The partnership, upon presentation of the draft, would then issue a check, payable to the Serrette committee, drawn on a partnership bank account into which the currency contributions were initially deposited.

The Commission concludes that the proposed system would not satisfy the requirements of Commission regulations at 11 CFR 9034.2 relating to matchable contributions. The checks issued by the purported partnership are not partnership contributions since the individuals whose funds are deposited in the bank account of the partnership have no partnership interest. Indeed, according to your proposal, the partnership exists only as a name on a bank account that is established on behalf of the Serrette committee to handle these currency contributions. The Commission has previously held that partnership contributions may not be made on behalf of or attributed to other persons who have no interest in the partnership. See Advisory Opinion 1980-67, copy enclosed, and 11 CFR 110.1(e). In addition, use of the so called partnership bank account as the initial depository for the currency contributions does not comply with the Federal Election Campaign Act and Commission regulations which require that all receipts of a political committee be deposited in an account of such committee which is maintained at a bank or other depository institution. 2 U.S.C. 432(h), 11 CFR 103.3(a).

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)

Lee Ann Elliott
Chairman for the Federal Election Commission

Enclosure (AO 1980-67)