



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 17, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1984-34

Clarice Smith
805 Montevideo #30
Lansing, Michigan 48910

Dear Ms. Smith:

This responds to your letter of July 12, 1984, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the acceptance of a contribution to the principal campaign committee of a candidate for the U.S. House of Representatives.

You state that you are the Assistant Treasurer of Citizens for McGregor ("the Committee"), the principal campaign committee of Jacqueline McGregor, a 1984 Congressional candidate in Michigan. You also state that another principal campaign committee, Gilmore for Congress, for an unsuccessful 1980 candidate in the same Congressional district contributed \$1,000 to the Committee for the 1984 primary election campaign and another \$1,000 to the 1984 general election effort. You also indicate that the unsuccessful 1980 candidate, Jim Gilmore, now has contributed money in his individual capacity to the Committee.* You ask whether this contribution from Mr. Gilmore is permissible in light of the two aforementioned contributions by Gilmore for Congress.

The Commission concludes that the proposed contribution by Mr. Gilmore to the Committee would be permissible. Under the Commission's 1977 regulations, contributions of excess campaign funds by a candidate's principal campaign committee were considered personal contributions by the candidate and were subject to the applicable limitations. See 11 CFR 113.2 (1977). This provision was deleted in 1980 when the Commission's regulation was changed to include the new statutory prohibition on the personal use of excess campaign funds. See

* Committee reports filed with the Commission disclose that on March 2, 1984, James S. Gilmore, Jr., contributed \$250 to the primary election campaign of Citizens for McGregor.

2 U.S.C. 439a and 11 CFR 113.2(d)(1980). Furthermore, under 11 CFR 102.11 of the Commission's 1977 regulations, a contribution from a candidate's personal funds was combined with any contribution from that candidate's campaign committee for purposes of the \$1,000 limitation on occasional, isolated, or incidental support by one Federal candidate for another. This provision was also deleted from the Commission's 1980 regulations. See 11 CFR 102.12(c)(2)(1980). In light of these changes, the Commission concludes that the contributions by Gilmore for Congress to Citizens for McGregor were not personal contributions by Mr. Gilmore; therefore, he may make individual contributions with respect to Ms. McGregor's 1984 primary election, subject to the contribution limitations and other requirements of the Act.

The Commission expresses no opinion regarding any possible tax ramifications of the proposed transaction, as such matters are not within the Commission's jurisdiction. The Commission notes, however, that under the Internal Revenue Code, amounts contributed by one political organization to another political organization are treated as amounts "not diverted for the personal use of the candidate or any other person." 26 U.S.C. 527(d).

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