



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 9, 1985

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1985-22

The Honorable William Clay
United States House of Representatives
Washington, D.C. 20515

Dear Representative Clay:

This responds to your letter of June 12, 1985, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the purchase of specialized attire for you and your wife by your campaign committee.*

Specifically, you ask whether campaign funds may be used to purchase tuxedos and evening gowns that you and your wife will wear at "politically related functions which are both social and official business." Since you have not indicated that these "politically related functions" are campaign events in connection with your 1986 re-election campaign, the Commission assumes for purposes of this opinion that the proposed purchases are not campaign expenditures. Accordingly, the issue raised by your request is whether the proposed use of your campaign funds is permissible under 2 U.S.C. 439a and Commission regulations.

The cited 439a provides in pertinent part that amounts received by a candidate as "contributions that are in excess of any amount necessary to defray his expenditures" may be used for several prescribed purposes including the payment of any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office...". See also Commission regulations at 11 CFR 113.2. Section 439a further provides that "no such amounts may be converted by any person to any personal use...". However, this prohibition does not apply to any individual who was a Representative in Congress on January 8, 1980. Since you were a Member of Congress on January 8, 1980, you are not prohibited by the Act from using your campaign funds for the described purchase regardless of whether the purchase is deemed to be a personal expense, a "politically related" expense, or an ordinary and necessary expense incurred in connection with your duties as a holder of Federal office.

All payments made by your principal campaign committee for this formal evening wear must, of course, be reported in accordance with the Act and regulations. See in particular 11 CFR 104.3(b)(2) and (b)(4). Based on the assumption stated above regarding the purpose of this purchase, the payments should be reported by your committee as other disbursements and not as campaign expenditures. See 11 CFR 104.3(b)(4)(vi).

The Commission expresses no opinion as to the possible application of House rules to the described activity, nor as to any tax ramifications, since those issues are outside 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)

John Warren McGarry
Chairman for the Federal Election Commission

*/ The Commission notes, on the basis of reports filed by your principal campaign committee, the Clay Campaign Committee, and covering the period November 6 through December 31, 1984, that you have apparently become a candidate for the 1986 election cycle by virtue of having received contributions aggregating in excess of \$5,000. 2 U.S.C. 431(2)(B) and 11 CFR 100.3(a).