



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 22, 1985

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1985-33

Honorable Cardiss Collins
Citizens to Re-Elect Cardiss Collins
210 Seventh Street, S.E.
Suite 1985/C
Washington, D.C. 20003

Dear Representative Collins:

This responds to your letter of October 3, 1985, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the reporting of loans by your principal campaign committee.

You state that there are "entities" that are willing to make personal loans to you as a candidate but are not willing to make loans to your principal campaign committee Citizens to Re-Elect Cardiss Collins.¹ You state that you in turn wish to loan these funds to your committee. You add that as a Member of Congress the personal loans to you are reportable in your financial disclosure report.²

You ask whether your committee may report the receipt of these funds as a personal loan from the candidate to the committee.

Commission regulations permit a candidate to make unlimited contributions, including loans, from the candidate's personal funds to her authorized committees. See 11 CFR 110.10(a) and Advisory Opinion 1984-60.³ Such loans are reportable by the committee as loans made to the committee by the candidate. See 2 U.S.C. 434(b)(2)(G) and (3)(E); 11 CFR 104.3(a)(3)(vii) and 104.3(a)(4)(iv). This procedure applies to loans to the committee from the candidate's personal funds.

The Act and Commission regulations, however, specifically provide that when a candidate receives a loan for use in connection with her campaign, the candidate receives such a loan as an

agent of her authorized committee or committees. 2 U.S.C. 432(e)(2), 11 CFR 101.2 and 102.7(d). Such loans are reportable by the committee and itemized as loans from the lender to the committee, rather than as loans from the candidate to the committee. 2 U.S.C. 434(b)(2)(H) and (3)(E); 11 CFR 104.3(a)(3)(vii) and 104.3(a)(4)(iv); see also 11 CFR 104.3(d). Furthermore, the repayment of such loans are reported and itemized as disbursements to the lender. 2 U.S.C. 434(b)(4)(E) and (5)(D); 11 CFR 104.3(b)(2)(iii) and 104.3(b)(4)(iii) and (iv).⁴

The Act further provides that loans by lending institutions described in the Act made in accordance with applicable law and in the ordinary course of business do not constitute contributions to the candidate or her authorized committees. 2 U.S.C. 431(8)(B)(vii); 11 CFR 100.7(b)(11). Thus, any loans to a candidate as an agent of her authorized committees or to her authorized committees from persons or entities, other than those lending institutions described in the Act, come within the Act's definition of contribution. See 2 U.S.C. 431(8)(A)(i); 11 CFR 100.7(a)(1). As contributions, such loans become subject to the prohibitions and limitations of the Act. See 2 U.S.C. 441a, 441b, 441c, 441e, and 441f; Advisory Opinions 1982-64 and 1978-40.

You are a candidate who will receive personal loans which you then plan to loan to your committee. The Act specifies that you will be treated as receiving or obtaining these loans as an agent of your committee. Therefore, these loans do not qualify as your personal funds. Accordingly, your committee should report and itemize these loans as loans from the initial lender rather than as loans of your personal funds, see Advisory Opinions 1982-64 and 1978-40.

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. 2 U.S.C. 437f.

Sincerely yours,

(signed)

John Warren McGarry
Chairman for the Federal Election Commission

Enclosures (AOs 1984-60, 1982-64 and 1978-40)

1/ Your principal campaign committee reported the receipt of \$38,660 in contributions during the period of January 1, 1985, through June 30, 1985. You filed your Statement of Candidacy on September 26, 1985. See 2 U.S.C. 431(2) and 11 CFR 100.3.

2/ This report is filed with the Clerk of the House of representatives pursuant to the Ethics In Government Act of 1978, 2 U.S.C. 701 et seq. The Commission does not address any questions regarding the filing of your financial disclosure report since such questions are not within its jurisdiction.

3/ Commission regulations also define "personal funds." See 11 CFR 110.10(b); Advisory Opinions 1982-64 and 1978-40.

4/ The Act and regulations also provide that debts and obligations owed to or by a political committee which remain outstanding shall be continuously reported until extinguished, See 2 U.S.C. 434(b)(8); 11 CFR 104.3(d) and 104.11. This reporting requirement attaches to both loans of a candidate's personal funds to her authorized committees and loans obtained by the candidate as an agent of her committees. This reporting requirement also continues into subsequent election cycles where the debt or obligation remains outstanding.