



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 24, 1986

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1985-42

Honorable Gene Taylor
2134 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Taylor:

This responds to your letter of December 4, 1985, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to payments by your campaign committee for an apartment lease.

Your request states that you propose to lease an apartment for your "personal use" while in Washington, D.C. You also state that this apartment will be used to provide accommodations for members of your campaign staff who visit Washington frequently. You indicate that you have been a Member of Congress since 1973 and are a candidate for reelection to your present office in the U.S. House of Representatives. You ask whether you may use campaign funds to pay a "portion of the lease."

The Act and regulations permit candidates and their campaign committees to make their own determination as to the types of expenditures that will most effectively influence their nomination or election. See Advisory Opinions 1984-59, 1984-8, and opinions cited therein. In past opinions, the Commission has held that campaign committees may purchase a vehicle for use by the candidate and the committee, pay rent to a candidate for campaign office space in the candidate's house or other candidate-owned property, and pay a portion of the rent on a candidate's residence where a part of the house is used for campaign equipment storage. See Advisory Opinions 1977-12, 1978-80, 1983-1 and 1984-59.

To the extent the use of the apartment by your campaign staff is to accommodate them on their visits to Washington for campaign purposes, this situation is materially indistinguishable from those cited above. Therefore, to that extent an allocable portion of the lease may be paid by your campaign committee and treated for purposes of the Act as an expenditure to influence your

nomination or election. The portion of the rent paid by the committee as a campaign expenditure should be reported as an operating expenditure under 2 U.S.C. 434(b) and 11 CFR 104.3.

If, on the other hand, the use of the apartment is provided to your campaign staff in connection with visits to Washington that are not for the purpose of conducting campaign activities, the payments made by your committee would appear to represent a use of excess campaign funds for a personal purpose. See 2 U.S.C. 439a, 11 CFR 113.2; also see Advisory Opinion 1985-22.

Since you were a Member of Congress on January 8, 1980, such a personal use would not be barred by the Act or Commission regulations. Payments for such a use should, however, be reported by your committee as miscellaneous disbursements rather than campaign operating expenditures. See 2 U.S.C. 434(b)(6)(A), 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 and Commission regulations to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Joan D. Aikens
Chairman for the Federal Election Commission

Enclosures (AO 1985-22, 1984-59, 1984-59, 1984-8, 1983-1, 1978-80, 1977-12)