



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 22, 1986

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1986-9

Honorable Dan Daniel
2308 Rayburn Building
Washington, D.C. 20515

Dear Representative Daniel:

This responds to your letter of March 18, 1986, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the use of your campaign funds to reimburse you for certain legal expenses.

You state that you have been the subject of inquiries by the House Committee on Standards of Official Conduct. You indicate that these inquiries related to air and automobile travel for which you have made reimbursements to the Clerk of the House and to Beech Aircraft Corporation. You state that you incurred, and have paid, legal expenses related to these inquiries. In addition, you have filed with the Commission your statement of candidacy with respect to the 1986 election. You have also designated as your principal campaign committee the "Daniel for Congress Campaign Committee" and as an authorized committee the "Committee to Re-elect Dan Daniel."

You ask whether you may use your campaign funds to reimburse you for the legal expenses you incurred in connection with the inquiries by the House committee on the basis that they were incurred during the discharge of your official responsibilities.

The Act provides that "[a]mounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures...may be used by such candidate...to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office...or may be used for any other lawful purpose,...except that, with respect to any individual who is not a...Representative in...the Congress on January 8, 1980, no such

amounts may be converted by any person to any personal user other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office." 2 U.S.C. 439a; see 11 CFR 113.2(a).

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 purpose regardless of whether the purpose 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, or for other lawful purposes. Therefore, you may use your campaign funds to reimburse yourself for these legal expenses. See Advisory Opinions 1985-22 and 1977-39.

The authorized committee which makes the reimbursement should report such reimbursement as an "other disbursement" in accordance with 11 CFR 104.3(b)(2)(vi). Assuming the payment exceeds \$200, your committee should identify you as the payee and also itemize the amount, date, and purpose of the disbursement. See 11 CFR 104.3(b)(4)(vi).

The Commission expresses no opinion as to the application of House rules or any tax ramifications regarding this transaction because 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. 2 U.S.C. 437f.

Sincerely yours,

(signed)

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosures (AOs 1985-22 and 1977-39)