



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 21, 1986

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1986-30

Honorable David O'B. Martin
109 Cannon House Office Building
Washington, D.C. 20515

Dear Representative Martin:

This responds to your letter dated August 1, 1986, 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 expenses for campaign travel.

You are the Representative in Congress for the 26th Congressional District of New York. You have designated the "Committee to Reelect Dave Martin To Congress" as your principal campaign committee and are a candidate for reelection. You state that you and a bipartisan group of Federal and state legislators plan to participate in a political campaign and regional tourism promotional tour through various New York State waterways on a 53-foot houseboat named "God's Country." You add that the trip will cover a period of several weeks before and after the September 9th New York primary. Individual Federal and state legislators as well as their political "campaign workers" will be aboard the houseboat at various times and for portions of the trip as their schedules permit.

You explain that the houseboat's manufacturer, skipper Liner, and its New York sales representative, Bonnie Castle Marina, will provide the houseboat and compensate the pilot in order to promote the availability of the vessel in the New York market. According to your office, both Skipper Liner and Bonnie Castle Marina are corporations. You state that the respective campaign organizations will pay the maintenance and operations costs and fees associated with the trip as well as insurance and other miscellaneous costs. You further explain that "no aspect of the trip will be at the taxpayers' expense." You add that since neither the manufacturer nor its sales representative is desirous of receiving compensation for the houseboat's use, you are not being charged any rental or lease fees or for the pilot's compensation.

You ask to what extent your campaign committee is required to report the use of the houseboat for this trip.*

The Act prohibits a corporation from making a contribution in connection with a Federal election, and prohibits a candidate or his campaign committee from accepting a prohibited corporate contribution. 2 U.S.C. 441b(a). This prohibition includes in-kind contributions, which are defined to include gifts of goods or services at less than their normal and usual charge. 2 U.S.C. 431(8)(A)(i) and 441b(b)(2); 11 CFR 100.7(a)(1)(iii); Advisory Opinion 1985-28. With respect to the use of corporate facilities for campaign travel, Commission regulations specifically provide that a candidate, candidate's agent, or person traveling on behalf of a candidate who uses a means of transportation owned or leased by a corporation must reimburse, within a commercially reasonable time, the corporation at the normal and usual rental charge. 11 CFR 114.9(e)(2).

Accordingly, since both Skipper Liner and Bonnie Castle marina are corporations, the reportable travel expenses for this trip should, in addition to the operating expenses you describe, include the usual and normal rental charge for the use of the houseboat and the pilot's compensation. This conclusion is reached notwithstanding your statement that these corporations are providing the houseboat in order to promote it in the New York market. See Advisory Opinions 1985-39 and 1985-28. Furthermore, Commission regulations provide that all travel expenses for campaign-related travel are reportable, whether they are paid by the candidate, the candidate's committee, or any other political committee. See 11 CFR 106.3; Advisory Opinion 1984-8.

Since you state that several Federal candidates will be participating in various portions of the trip, these travel expenses should be allocated at least with respect to the Federal candidates. Commission regulations do not specify a particular method of computing each Federal candidate's proportionate share but do require that these expenses be "attributed to each candidate in proportion to, and shall be reported to reflect, the benefit reasonably expected to be derived." 11 CFR 106.1(a). See Advisory Opinion 1980-38.

Your request suggests that each participating candidate or legislator will pay his or her allocable portion of these travel expenses to the manufacturer or its sales representative. Your committee should report the payment for its portion as an operating expenditure. See 11 CFR 104.3(b)(2) and (4). In the case where your committee also pays for the portion of these expenses allocable to another Federal candidate, such payment will constitute an in-kind contribution to that candidate. 11 CFR 106.1(b). Your committee should report this amount as a contribution to that candidate, and the recipient candidate's committee should report it as both a contribution received and an expenditure made. See 11 CFR 104.3(b)(2) and (4); 104.13(a). Where your

* In your request, you also ask about the reporting requirements for your colleagues who will participate in this trip. Commission regulations permit an advisory opinion to address only the proposed activities of the requesting person. See 11 CFR 112.1(b). Since other participants in the trip have not joined in this request, the opinion is issued only with respect to you and your committee. Nevertheless, Commission regulations also provide that any advisory opinion may be relied upon by "any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered." 11 CFR 112.5(a)(2).

committee pays for the expenses allocable to state or local candidates or legislators, such payments will be reportable as either operating expenditures, if the payments are made to influence your own election, or as other disbursements. See 11 CFR 104.3(b)(2) and (4).

The Commission expresses no opinion regarding the application of state law to the reporting and other requirements for state candidate committees or regarding the application of House rules, 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.

Sincerely yours,

(signed)

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosures (AOs 1985-39, 1985-28, 1984-8, and 1980-38)