



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 20, 1987

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1987-2

David B. Applebaum, Treasurer
The Florio '88 Committee
P.O. Box 224
Somerdale, NJ 08083

Dear Mr. Applebaum:

This responds to your letter of January 7, 1987, on behalf of The Florio '88 Committee ("the Florio Committee" or "the committee") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the purchase of an automobile by the Florio Committee.

According to your request, the Florio Committee is the principal campaign committee of U.S. Representative James J. Florio for his 1988 reelection campaign. The committee proposes to purchase an automobile to be used by Mr. Florio for travel to and from events relating to his reelection campaign and for travel to and from events relating to "his official duties and responsibilities as a Member of the House of Representatives." You ask if the committee's ownership of a vehicle for such purposes is permissible under the Act and regulations.

The Act and regulations permit candidates and their campaign committees to make their own determinations as to types of expenditures that will most effectively influence their nominations or elections. See Advisory Opinion 1985-42 and opinions cited therein. In several past opinions, the Commission has held that a campaign committee may purchase a vehicle for use by the candidate and committee. Advisory Opinions 1984-59, 1977-1, and 1976-64. Accordingly, the Florio Committee would be permitted to purchase and assume ownership of an automobile that will be used for campaign travel by Mr. Florio and others on his behalf.

You further explain that the Florio Committee's purchase of the automobile is also for Mr. Florio's use for travel to and from events relative to...his official duties and responsibilities as a

Member of the House of Representatives." You have not described the specific events you contemplate or the circumstances in which they would occur. Thus the Commission is not presented with any factual or legal issues in this advisory opinion with respect to the nature of these events. See 11 CFR 112.1. In these circumstances, the Commission cannot determine whether Mr. Florio's travel expenses for use of the committee automobile to attend the cited events are "ordinary and necessary expenses incurred in connection with his...duties as a holder of Federal office." 2 U.S.C. 439a, 11 CFR 113.2. If Mr. Florio's travel expenses do qualify under the quoted provisions, which expressly permit the use of excess campaign funds for such expenses, the automobile purchased with committee funds and operated at committee expense could be used by him for the travel in question.

If the events in question and the related travel expenses do not qualify under 2 U.S.C. 439a and Commission regulations, and are not otherwise expenditures for campaign-related travel, they would presumably be expenses of a personal nature. As personal expenses, the Act would still permit the Florio Committee to give Mr. Florio the use of the automobile because he was a Member of Congress on January 8, 1980. In this respect the Act and regulations provide that excess campaign funds may not be "converted by any person to any personal use," except that this personal use prohibition does not apply to Mr. Florio and others similarly situated. 2 U.S.C. 439a, 11 CFR 113.2(d).

Payments made by the Florio Committee for expenses related to use of the vehicle for the reelection campaign are campaign expenditures and should be reported as committee operating expenditures. 2 U.S.C. 434(b)(5)(A) and 11 CFR 104.3(b)(4)(i); also see 11 CFR 106.3(a). Payments related to the use of the vehicle for qualified officeholder purposes, or for personal purposes, should be reported as other disbursements. 2 U.S.C. 434(b)(6)(A) and 11 CFR 104.3(b)(4)(vi).

With respect to the purchase price, the Florio committee is required to pay the usual and normal charge for the vehicle. To the extent it pays less than that amount, the seller would be treated as making a contribution for purposes of the Act and regulations. See 11 CFR 100.7(a)(1)(iii). The payment of the purchase price should be reported as a campaign expenditure assuming the Florio Committee determines that the principal use of the vehicle will be for campaign purposes. In any case, the purchase price is required to be reported as a Florio committee disbursement. See 2 U.S.C. 434(b)(5)(A) and (6)(A).

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,

(signed)

Scott E. Thomas
Chairman for the Federal Election Commission

Enclosures (AO 1985-42, 1984-59, 1977-1, 1976-64)