



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 19, 1988

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1987-32

Jack Polster
1506 Ocean Drive
Homer, Alaska 99603

Dear Mr. Polster:

This responds to your letter of November 22, 1987, supplementing an earlier letter of April 5, 1987, requesting an advisory opinion, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the receipt of contributions of dollars of silver.

According to your request, you intend "to file for candidacy," seeking the at-large seat in Alaska for the United States House of Representatives. As a major part of your campaign platform, you will raise the issue of the constitutionality of Federal reserve notes as legal tender. To support your position, you will only accept campaign contributions in the form of silver dollars. You also wish to avoid being considered a candidate under the Act and therefore propose to accept only "4,999 dollars of silver."

The question you raise is whether an individual who finances his campaign solely from "4,999 dollars of silver" is a candidate under the Act?

An individual becomes a candidate under the Act when that individual receives contributions or makes expenditures in excess of \$5,000. 2 U.S.C. 431(2)(A), 11 CFR 100.3(a)(1). After an individual becomes a candidate, he or she must designate a political committee to serve as the principal campaign committee. 2 U.S.C. 432(e), 11 CFR 102.12. The Act and regulations require that a political committee deposit all of its receipts in a properly designated committee account. 2 U.S.C. 432(h)(1), 11 CFR 103.3(a).

Federal reserve notes and gold or silver coins are legal tender for all debts, public charges, taxes, and dues. U.S. Const. art. I, 10, cl. 1; see also Legal Tender Case, 110 U.S. 421, 446 (1884);

Foret v. Wilson, 725 F.2d 254 (5th Cir. 1984). The Commission has previously concluded that, unless traded as a commodity or sold as a collector's item, the value of a silver dollar contributed to a campaign is the same as a one dollar Federal reserve note. Advisory Opinion 1980-125.

The Commission concludes that if you do not treat the silver dollars you receive as a commodity or sell them as collectors' items, do not receive contributions of more than 5,000 silver dollars, and do not make expenditures over \$5,000, you will not be a candidate under the Act.* Thus, assuming you do not become a candidate, you will not be required to authorize a principal campaign committee or to deposit the silver dollars you receive in an account established by that committee.

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)

Thomas J. Josefiak
Chairman for the Federal Election Commission

Enclosure (AO 1980-125)

*/ The Commission cautions, however, that any other contributions, e.g., a gift, loan, advance, deposit of money, in-kind contribution or anything of value made by any person for the purpose of influencing any election for federal office, see generally 11 CFR 100.7(a), will count towards this \$5,000 threshold. Further, any expenditures in addition to those paid with silver dollars will count towards the \$5,000 expenditure threshold for triggering candidate status. See generally 11 CFR 100.8(a). Finally, a candidate may not receive from an individual contributions in the form of currency that exceed \$100. 2 U.S.C. 441g.