



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 1, 1990

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1990-21

The Honorable Edward Madigan
United States House of Representatives
2109 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Madigan:

This responds to your letters dated August 16 and September 10, 1990, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the proposed use of your campaign funds for your wife's expenses in connection with her speeches during your fall campaign.

You represent the 15th Congressional District of Illinois in the House of Representatives and are a candidate for reelection in the 1990 general election. You state that your wife and you recently returned from Eastern Europe where you met with various government officials and new entrepreneurs. During the fall campaign, your wife will be giving talks about what you learned on the trip. These talks will be given inside your district only and will be made before groups of Republican women. You explain that there is "no business purpose" for these talks and that "they are only connected with [your] duties as a Federal officeholder in the sense they refer to the discharge of [your] duties." You further state that the campaign will not be referred to in the talks, that no contributions will be solicited or collected from individuals attending these talks, but that the talks will be delivered in connection with campaign events. The kinds of expenses incurred for these talks will be for mileage, lodging, and meals, and you anticipate that such expenses will total less than \$1,000.

You wish to know whether your campaign committee could pay for any of the expenses your wife would incur in connection with giving these talks.

Under the Act and Commission regulations, a candidate and the candidate's campaign committee have wide discretion in making expenditures to influence the candidate's election. Advisory

Opinion 1988-13, 1987-2, 1985-42, 1981-25, and 1981-2. The Commission notes your statements that your wife will not refer to the campaign in these talks and that contributions will not be solicited from those attending the talks. You have also indicated the partisan composition of the audiences and that the speeches will be delivered in connection with your campaign events. Accordingly, the Commission concludes that your wife's proposed activity, including the travel, lodging, and meals, would be for the purpose of influencing your election and that the funds of your principal campaign committee may be used for the expenses connected with this activity. Payments made by your committee for these expenses should be reported as operating expenditures. 2 U.S.C. 434(b)(4)(A) and (B)(5)(A); 11 CFR 104.3(b)(2)(i), (b)(4)(i), and (c)(2)(i).

If the payments made by your committee are in the form of reimbursements to your wife or you, and if such payments are in excess of the amount of the expenses incurred, then the retention of such excess by you or your wife would result in the personal use of campaign funds. See 2 U.S.C. 439a, 11 CFR 113.2; see also Advisory Opinion 1988-13. Under 2 U.S.C. 439a, amounts received as contributions that are in excess of any amount necessary to defray campaign expenditures may be used by the candidate for personal purposes if he was a Member of Congress on January 8, 1980. Such personal use in this situation, therefore, would be permissible because you became a Member of Congress in 1973.^{1/} See Advisory Opinions 1988-41, 1985-42, 1984-49, and 1981-25.

The Commission expresses no opinion as to 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)

Lee Ann Elliott
Chairman for the Federal Election Commission

Enclosures (AOs 1990-2, 1988-41, 1988-13, 1987-2, 1985-42, 1984-50, 1984-49, 1981-25, and 1981-2)

1/ "Excess campaign funds" are defined as amounts which the candidate determines are in excess of any amount necessary to defray his or her campaign expenditures. 11 CFR 113.1(e). Advisory Opinions 1990-2 and 1984-50. According to the first report after the 1990 Illinois primary, the 1990 April quarterly report, Citizens for Edward R. Madigan had \$452,520 cash on hand, was owed another \$19,000 and owed no debts. The most recent report, the 1990 July quarterly, discloses \$464,590 on hand with the other information unchanged.