



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 24, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1992-10

Bruce H. Turnbull
Weil, Gotshal & Manges
1615 L Street, N.W.
Washington, D.C. 20036

Dear Mr. Turnbull:

This responds to your letter dated March 3, 1992, requesting an advisory opinion on behalf of The Committee for a Democratic Consensus ("the Committee") concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a proposed disbursement of funds by the Committee.

The Committee is a multicandidate political committee which filed a Statement of Organization with the Commission on April 27, 1984. Specifically, it wishes to make a disbursement to the Center for Participation in Democracy ("CPD"), which you state is a nonprofit voter registration organization located in California and tax exempt under 26 U.S.C. 501(c)(3). It is the Committee's understanding that the funds would be used to pay legal expenses for CPD and for a member of CPD's Board of Directors, Kim Cranston, who is the son of Senator Alan Cranston. These legal expenses have been incurred in connection with the investigation of Senator Cranston's role regarding donations made to CPD by Charles Keating, Mr. Keating's relationship to CPD, and CPD's activities in general.

You state that Senator Cranston is the Honorary Chairman of the Committee, but does not serve on its Board of Directors or otherwise control the organization. Various individuals associated with Senator Cranston, however, have served on the Committee's Board, including his Chief of Staff. Although Senator Cranston has helped to raise funds for CPD, he does not serve on the Board of Directors or have any official role with the organization.

On its statement of organization, the Committee indicates that it is not an authorized campaign committee of Senator Cranston, and it has not identified Senator Cranston's authorized campaign committee, Cranston for Senate '92, Inc., as an affiliated committee. Accordingly, the Commission responds to your proposal by assuming, without deciding, that the Committee is not affiliated with Cranston for Senate '92, Inc.

As a political committee not authorized by a candidate, the Committee would not be subject to restrictions on the use of its funds that apply with respect to principal or authorized campaign committees, e.g., personal use restrictions set out at 2 U.S.C. 439a and 11 CFR 113.2. See Advisory Opinions 1988-13 and 1987-1. The Commission has concluded that a political committee not authorized by a candidate may expend its funds for any lawful purpose consistent with the Act and Commission regulations. Advisory Opinions 1991-21, 1986-32, 1985-34, and 1983-4. For example, the Committee could not expend or disburse its funds for the purpose of influencing a Federal election in excess of the applicable limits of 2 U.S.C. 441a. See Advisory Opinion 1991-21. In view of your representations as to the nature of CPD and the proposed uses of the funds, the Commission concludes that the Committee may make the proposed disbursements to CPD.^{1\}

The Commission emphasizes that this conclusion is based on CPD's continuing qualification as a tax-exempt organization under 26 U.S.C. 501(c)(3) and also on the assumption that its past or future activities would not make it a political committee under the Act and Commission regulations. This opinion does not express or imply any views as to the legality of CPD's activity if it were determined to be a political committee.

The Commission expresses no opinion as to any tax ramifications of your proposed activity, 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)

Joan D. Aikens
Chairman for the Federal Election Commission

Enclosures (1991-21, 1988-13, 1987-1, 1986-32, 1985-34, and 1983-4)

ENDNOTES

1\ According to the 1991 year end report filed by the Committee, the Committee had \$120,541 on hand with no debts owed to or by it.