FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 25, 1999

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1999-19

Andrea Ellis
15 Sherwood Drive
Lincolnshire, IL 60069

Dear Ms. Ellis:

This refers to your letter dated June 23, 1999, which requests advice concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a contribution made to the Chris Cohen for Congress Committee ("the Committee") from funds in a living trust.

The Committee is the principal campaign committee of Chris Cohen, a candidate for election to the U.S. House of Representatives from the 10th Congressional District of Illinois. You state that you have tendered a check from a living trust to the Committee. You are the beneficiary, trustee and trustor of the trust. You explain that you have rolled your assets into the living trust. It is from the trust account that you pay all your household and other expenses. You affirm that the trust is not a tax shelter. Further, you affirm that no person has access to its funds other than yourself, and no one is authorized to write a check other than you. You also state that this trust is not a testamentary trust.

You state that you and the Committee propose that the contribution be attributed to you personally and to your personal contribution limit. You want this to be your contribution to the Committee. You do not intend the trust to have a separate contribution limit.

Commission regulations set forth a general rule for attribution of contributions made by check. "Absent evidence to the contrary, any contribution made by check, money order, or other written instrument shall be reported as a contribution by the last

person signing the instrument prior to delivery to the candidate or committee." 11 CFR 104.8(c).

The Commission concludes that a contribution made from your *inter vivos* trust to the Committee is permissible and would be considered a contribution from you, rather than from the trust. Under section 104.8(c) you would be the contributor to the campaign, rather than the trust, because your signature appears on the written instrument making the contribution.[1] In your situation it would not matter whether you signed in your capacity as beneficiary or as trustor or as trustee. The evidence establishes that you are the beneficial owner and have retained complete control over use of the funds in the trust. You, as trustee and trust beneficiary, control the use of the funds.[2]

This response constitutes an advisory opinion concerning the 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

Enclosures (AOs 1999-14, 1988-8 and 1978-7)

[1] Because your situation concerns an *inter vivos* trust rather than a testamentary trust, it is distinguishable from past advisory opinions dealing with testamentary trusts and bequests. In those opinions, the Commission viewed the testamentary trust of a decedent as the successor legal entity to the testator, and therefore applied the Act and its contribution limits to the estate trust as the alter ego of the living testator in the situation where the testator chose the political committee to be the recipient of the contribution. For example, in Advisory Opinion 1988-8, the trust was not treated as an independent entity apart from its creator for contribution limit purposes. See Advisory Opinion 1988-8, see also Advisory Opinion 1999-14 and compare Advisory Opinion 1978-7.

[2] The Commission notes that you do not propose to make a contribution from your trust to a Presidential campaign. Where contributions are made from trust accounts to Presidential campaigns that are eligible for Federal matching payments, Commission regulations at 11 CFR 9034.2(c)(2) require that the contributor has equitable ownership of the trust account and that a signed contributor statement be submitted with the check.