FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1421

Date Filmed 4/14/82 Camera No. --- 2

Cameraman GPC

FEDERAL ELECTION COMMISSION

3 Routing Slips

Objection memo from Moss to Steele

Substance of Comm. Elliot's + Aikens objections

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

____	(1) Classified Information	____	(6) Personal privacy
____	(2) Internal rules and practices	____	(7) Investigatory files
____	(3) Exempted by other statute	____	(8) Banking Information
____	(4) Trade secrets and commercial or financial information	____	(9) Well Information (geographic or geophysical)
✓	(5) Internal Documents		

Signed Thomas J. Whitehead

date 2/11/82

FEC 9-21-77

82040314609

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 9, 1982

Ms. Virginia Andary, Executive Director
Catholics for a Free Choice, Inc.
1411 K Street, N.W.
Washington, D.C. 20005

RE: MUR 1421

Dear Ms. Andary:

On January 12, 1982, the Commission found reason to believe that your firm had violated 2 U.S.C. §441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with the above-referenced matter. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within thirty days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that the payment of funds to Voters for Choice, a political committee, during the period between January 4, and June 12, 1980, nevertheless is a violation of the Act's prohibition against corporate contributions, and you should take immediate steps to insure that this activity does not occur in the future.

The General Counsel's Factual and Legal analysis which formed a basis for the Commission's finding is attached for your information.

If you have any questions, please direct them to Dennis N. Moss, at (202) 523-4057.

Sincerely,

Frank P. Reiche

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosure

General Counsel's Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 1421
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT Catholics for a Free Choice, Inc.

SOURCE OF MUR: I N T E R N A L L Y   G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, an advisory opinion could not be given. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to

---

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

undertake in the future." 11 C.F.R. § 112.1(b); thereby precluding advisory opinions based on past activity. This matter was accordingly referred to the General Counsel's Office for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the payment of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

Therefore, the Office of General Counsel recommends that there is reason to believe that Catholics for a Free Choice, Inc. violated 2 U.S.C. § 441b.

RECOMMENDATION

1. Find reason to believe that Catholics for a Free Choice, Inc. violated 2 U.S.C. § 441b.

2. Take no further action and close the file.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 9, 1982

Ms. Kristina Kiehl, Treasurer
Voters for Choice
Box 4253
Takoma Park, Maryland 20912

RE: MUR 1421

Dear Ms. Kiehl:

On January 12, 1982, the Commission found reason to believe that your committee had violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with the above-referenced matter. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within thirty days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that the receipt of funds from Catholics for a Free Choice, Inc., during the period between Jaunary 4, and June 12, 1980, nevertheless is a violation of the Act's prohibition against corporate contributions, and you should take immediate steps to insure that this activity does not occur in the future.

The General Counsel's Factual and Legal analysis which formed a basis for the Commission's finding is attached for your information.

If you have any questions, please direct them to Dennis N. Moss, at (202) 523-4057.

Sincerely,

Frank P. Reiche

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosure

General Counsel's Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 1421
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT Voters for Choice

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, an advisory opinion could not be given. Commission regulations explaining the advisory opinion procedure state

---

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to undertake in the future." 11 C.F.R. § 112.1(b); thereby precluding advisory opinions based on past activities. This matter was accordingly referred to the General Counsel's Office for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the payment of funds by CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

Therefore, the Office of General Counsel recommends that there is reason to believe that Voters for Choice violated 2 U.S.C. § 441b.

RECOMMENDATION

1. Find reason to believe that Voters for Choice violated 2 U.S.C. § 441b.

2. Take no further action and close the file.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Virginia Andary, Executive Director
Catholics for a Free Choice, Inc.
1411 K Street, N.W.
Washington, D.C. 20005

RE: MUR 1421

Dear Ms. Andary:

On January 12, 1982, the Commission found reason to believe that your firm had violated 2 U.S.C. §441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with the above-referenced matter. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within thirty days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that the payment of funds to Voters for Choice, a political committee, during the period between January 4, and June 12, 1980, nevertheless is a violation of the Act's prohibition against corporate contributions, and you should take immediate steps to insure that this activity does not occur in the future.

The General Counsel's Factual and Legal analysis which formed a basis for the Commission's finding is attached for your information.

8/8/82

If you have any questions, please direct them to Dennis N. Moss, at (202) 523-4057.

Sincerely,

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosure

General Counsel's Factual and Legal Analysis

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Kristina Kiehl, Treasurer
Voters for Choice
Box 4253
Takoma Park, Maryland 20912

RE: MUR 1421

Dear Ms. Kiehl:

On January 12, 1982, the Commission found reason to believe that your committee had violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with the above-referenced matter. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within thirty days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that the receipt of funds from Catholics for a Free Choice, Inc., during the period between Jaunary 4, and June 12, 1980, nevertheless is a violation of the Act's prohibition against corporate contributions, and you should take immediate steps to insure that this activity does not occur in the future.

The General Counsel's Factual and Legal analysis which formed a basis for the Commission's finding is attached for your information.

If you have any questions, please direct them to Dennis N. Moss, at (202) 523-4057.

Sincerely,

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosure

General Counsel's Factual and Legal Analysis

2/8/82

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Catholics for a Free Choice, Inc.	)	MUR 1421
Voters for Choice	)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on February 2, 1982, do hereby certify that the Commission decided by a vote of 5-0 to direct the Office of General Counsel to amend the Factual and Legal Analyses and the letters submitted by the General Counsel under memorandum dated January 27, 1982, in the above-captioned matter.

Commissioners Aikens, Elliott, McDonald, McGarry, and Reiche voted affirmatively for the decision; Commissioner Harris was not present at the time of the vote.

Attest:

2/5/82
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

82040314620

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/JODY CUSTER JC

DATE: JANUARY 29, 1982

SUBJECT: COMMENTS REGARDING MUR 1421 - Memorandum to the Commission dated January 27, 1982; Received in OCS, 1-27-82, 11:50

Attached is a copy of Commissioner Aikens' vote sheet with comments regarding the recommendation in the above-captioned matter.

This matter will be discussed in Executive Session on Tuesday, February 2, 1982.

ATTACHMENT:
Copy of Vote Sheet

82040514621

SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

82 JAN 28 P 5: 27

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

DATE AND TIME OF TRANSMITTAL WEDNESDAY, 1-27-82,
4:00

Commissioner McGARRY, AIKENS, McDONALD, ELLIOTT, REICHE, HARRIS

RETURN TO THE OFFICE OF COMMISSION SECRETARY BY THURSDAY, JANUARY 28, 1982
4:00

MUR No. 1421 - Memorandum to the Commission dated January 27, 1982

( ) I object to the recommendation in the attached report.

COMMENTS: ______________________________

Date 1-28-82 Signature Aikens

OBJECTIONS, SIGNED AND DATED, MUST BE RECEIVED IN THE COMMISSION SECRETARY'S OFFICE NO LATER THAN THE DATE AND TIME SHOWN ABOVE OR THE MATTER WILL BE DEEMED APPROVED. PLEASE RETURN ONLY THE VOTE SHEET TO THE OFFICE OF THE SECRETARY TO THE COMMISSION.

82010514622

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY CUSTER JC

DATE: JANUARY 28, 1982

SUBJECT: OBJECTION - MUR 1421 Memorandum to the Commission dated January 27, 1982; Received in OCS, 1-27-82, 11:50

The above-named document was circulated to the Commission on January 27, 1982 at 4:00 p.m.

Commissioner Elliott submitted an objection to this matter at 9:05, January 28, 1982.

This matter will be placed on the agenda for the Executive Session of Tuesday, February 2, 1982. A copy of Commissioner Elliott's vote sheet with her comments is attached.

Attachment:
Vote sheet

8 2 0 4 0 3 1 4 6 2 3

SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

82 JAN 28 A 9: 05

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

DATE AND TIME OF TRANSMITTAL WEDNESDAY, 1-27-82,
4:00

Commissioner McGARRY, AIKENS, McDONALD, ELLIOTT, REICHE, HARRIS

RETURN TO THE OFFICE OF COMMISSION SECRETARY BY: THURSDAY, JANUARY 28, 1982,
4:00

MUR No. 1421 - Memorandum to the Commission dated January 27, 1982

(X) I object to the recommendation in the attached report.

COMMENTS:

Date 1-27-82 Signature LeeAnn Elliott

OBJECTIONS, SIGNED AND DATED, MUST BE RECEIVED IN THE COMMISSION SECRETARY'S OFFICE NO LATER THAN THE DATE AND TIME SHOWN ABOVE OR THE MATTER WILL BE DEEMED APPROVED. PLEASE RETURN ONLY THE VOTE SHEET TO THE OFFICE OF THE SECRETARY TO THE COMMISSION.

January 27, 1982

MEMORNDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1421

Please have the attached Memo distributed to the Commission on a 24 hour no-objection basis. Thank you.

SENSITIVE

RECEIVED OF THE COMMISSION SECRETARY

82 JAN 27 A11: 50

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 27, 1982

MEMORANDUM

TO : The Commission

FROM : Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

SUBJECT: MUR 1421 (Formerly Pre-MUR 77)

Attached for the Commission's review and approval are notification letters of reason to believe findings against respondent committee and respondent corporation in the above-referenced matter. The letters also advise respondents that the file in this matter will be closed, pursuant to the Commission's determination on January 12, 1982.

Attachments
Letters to Respondents with General Counsel's Factual and Legal Analyses attached

8 2 0 4 0 1 4 1 6 3 5

(1)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Virginia Andary, Executive Director
Catholics for a Free Choice, Inc.
1411 K Street, N.W.
Washington, D.C. 20005

RE: MUR 1421

Dear Ms. Andary:

On January 12, 1982, the Commission found reason to believe that your firm had violated 2 U.S.C. §441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with the above-referenced matter. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within thirty days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that the transfer of funds to Voters for Choice, a political committee, during the period between January 4, and June 12, 1980, nevertheless is a violation of the Act's prohibition against corporate contributions, and you should take immediate steps to insure that this activity does not occur in the furture.

The General Counsel's Factual and Legal analysis which formed a basis for the Commission's finding is attached for your information.

8 2 0 4 0 3 1 1 4 6 2 7

(2)

If you have any questions, please direct them to Dennis N. Moss, at (202) 523-4057.

Sincerely,

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosure

General Counsel's Factual and Legal Analysis

(3)

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 1421
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT Catholics for a Free Choice, Inc.

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, it was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to

---

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

(4)

undertake in the future." 11 C.F.R. § 112.1(b). This matter was accordingly referred for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

Therefore, the Office of General Counsel recommends that there is reason to believe that Catholics for a Free Choice, Inc. violated 2 U.S.C. § 441b.

RECOMMENDATION

Find reason to believe that Catholics for a Free Choice, Inc. violated 2 U.S.C. § 441b.

(5)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Kristina Kiehl, Treasurer
Voters for Choice
Box 4253
Takoma Park, Maryland 20912

RE: MUR 1421

Dear Ms. Kiehl:

On January 12, 1982, the Commission found reason to believe that your committee had violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with the above-referenced matter. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within thirty days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that the receipt of funds from Catholics for a Free Choice, Inc., during the period between Jaunary 4, and June 12, 1980, nevertheless is a violation of the Act's prohibition against corporate contributions, and you should take immediate steps to insure that this activity does not occur in the future.

The General Counsel's Factual and Legal analysis which formed a basis for the Commission's finding is attached for your information.

If you have any questions, please direct them to Dennis N. Moss, at (202) 523-4057.

Sincerely,

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosure

General Counsel's Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 1421
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT Voters for Choice

SOURCE OF MUR: INTERNALLY GENERATED

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, it was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that

---

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to undertake in the future." 11 C.F.R. § 112.1(b). This matter was accordingly referred for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

Therefore, the Office of General Counsel recommends that there is reason to believe that Voters for Choice violated 2 U.S.C. § 441b.

RECOMMENDATION

Find reason to believe that Voters for Choice violated 2 U.S.C. § 441b.

Obj., on agenda 2-2-82

Gene
1-27-82
4:00

SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

82 JAN 27

January 27, 1982

MEMORANDUM

TO : The Commission

FROM : Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

SUBJECT: MUR 1421 (Formerly Pre-MUR 77)

Attached for the Commission's review and approval are notification letters of reason to believe findings against respondent committee and respondent corporation in the above-referenced matter. The letters also advise respondents that the file in this matter will be closed, pursuant to the Commission's determination on January 12, 1982.

Attachments
Letters to Respondents with General Counsel's Factual and Legal Analyses attached

8 2 0 4 0 3 5 1 4 6 7 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Virginia Andary, Executive Director
Catholics for a Free Choice, Inc.
1411 K Street, N.W.
Washington, D.C. 20005

RE: MUR 1421

Dear Ms. Andary:

On January 12, 1982, the Commission found reason to believe that your firm had violated 2 U.S.C. §441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with the above-referenced matter. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within thirty days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that the transfer of funds to Voters for Choice, a political committee, during the period between January 4, and June 12, 1980, nevertheless is a violation of the Act's prohibition against corporate contributions, and you should take immediate steps to insure that this activity does not occur in the furture.

The General Counsel's Factual and Legal analysis which formed a basis for the Commission's finding is attached for your information.

8 2 0 4 0 3 1 4 6 7 5

(2)

If you have any questions, please direct them to Dennis M. Moss, at (202) 523-4057.

Sincerely,

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosure

General Counsel's Factual and Legal Analysis

8 2 0 1 0 3 1 4 6 7 6

3

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 1421
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT Catholics for a Free Choice, Inc.

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, it was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to

82040314637

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

undertake in the future." 11 C.F.R. § 112.1(b). This matter was accordingly referred for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

Therefore, the Office of General Counsel recommends that there is reason to believe that Catholics for a Free Choice, Inc. violated 2 U.S.C. § 441b.

RECOMMENDATION

Find reason to believe that Catholics for a Free Choice, Inc. violated 2 U.S.C. § 441b.

(5)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Kristina Kiehl, Treasurer
Voters for Choice
Box 4253
Takoma Park, Maryland 20912

RE: MUR 1421

Dear Ms. Kiehl:

On January 12, 1982, the Commission found reason to believe that your committee had violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with the above-referenced matter. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within thirty days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

The Commission reminds you that the receipt of funds from Catholics for a Free Choice, Inc., during the period between Jaunary 4, and June 12, 1980, nevertheless is a violation of the Act's prohibition against corporate contributions, and you should take immediate steps to insure that this activity does not occur in the future.

The General Counsel's Factual and Legal analysis which formed a basis for the Commission's finding is attached for your information.

If you have any questions, please direct them to Dennis N. Moss, at (202) 523-4057.

Sincerely,

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosure

General Counsel's Factual and Legal Analysis

8 2 0 4 0 3 1 4 6 3 9

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 1421
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT Voters for Choice

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, it was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

8 2 0 1 0 3 1 4 6 1 0

an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to undertake in the future." 11 C.F.R. § 112.1(b). This matter was accordingly referred for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

Therefore, the Office of General Counsel recommends that there is reason to believe that Voters for Choice violated 2 U.S.C. § 441b.

RECOMMENDATION

Find reason to believe that Voters for Choice violated 2 U.S.C. § 441b.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Voters for Choice) Pre-MUR 77
Catholics for a Free Choice, Inc.)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on January 12, 1982, do hereby certify that the Commission took the following actions in Pre-MUR 77:

1. Failed in a vote of 2-4 to pass a motion to

   a) Open a MUR.

   b) Find reason to believe that Voters for Choice violated 2 U.S.C. §441b of the Federal Election Campaign Act of 1971, as amended.

   c) Find reason to believe that Catholics for a Free Choice Inc. violated 2 U.S.C. §441b of the Federal Election Campaign Act of 1971, as amended.

   d) Approve the letters attached to the General Counsel's December 10, 1981 report in this matter.

   Commissioners Harris and McDonald voted affirmatively for the motion; Commissioners Aikens, Elliott, McGarry, and Reiche dissented.

2. Decided in a vote of 4-2 to -

   a) Open a MUR.

   b) Find reason to believe that Voters for Choice violated 2 U.S.C. §441b of the Federal Election Campaign Act of 1971, as amended.

(Continued)

c) Find reason to believe that Catholics for a Free Choice, Inc. violated 2 U.S.C. §441b of the Federal Election Campaign Act of 1971, as amended.

d) Close the file in this matter.

e) Direct the Office of General Counsel to draft appropriate letters pursuant to these decisions and circulate the letters for Commission approval.

Commissioners Aikens, Elliott, McGarry, and Reiche voted affirmatively; Commissioners Harris and McDonald dissented.

Attest:

1-13-82

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

8 2 0 4 0 3 1 4 6 4 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY CUSTER

DATE: DECEMBER 15, 1981

SUBJECT: PRE-MUR 77 - First General Counsel's Report dated 12-10-81

The above-named document was circulated to the Commission on December 11, 1981 at 2:00.

Commissioners McGarry and Thomson submitted objections at 1:33 and 1:36 respectively on December 15, 1981.

This matter will be placed on the agenda for the Executive Session of Tuesday, January 5, 1982.

82040314644

December 10, 1981

MEMORANDUM TO: Marjorée W. Emmons

FROM: Phyllis A. Kayson

SUBJECT: [redacted]-MUR 77

Please hwwe the attached First General Counselâs Report distributed to the Commission on a 48 hour tally basis. Thank you.

Attachment

cc: Moss

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

81 DEC 10 P4: 37

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION 12-10-81

MUR # Pre-MUR 77
STAFF MEMBER(S)

Dennis Moss

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

RESPONDENTS' NAMES: Voters for Choice
Catholics for a Free Choice, Inc.

RELEVANT STATUTE: 2 U.S.C. § 441b(a)

INTERNAL REPORTS CHECKED: Committee Reports

FEDERAL AGENCIES CHECKED: None

GENERATION OF MATTER

This matter was initiated by a request for an advisory opinion from Voters for Choice ("VFC"), which was received on May 18, 1981. 1/

SUMMARY OF ALLEGATIONS

VFC, a political committee, requested an opinion as to the propriety of receiving funds from Catholics for a Free Choice ("CFFC"), an incorporated entity, as payment for the use of VFC's photo-

---

1/ As indicated in the Reports Analysis Referral Update of July 24, 1981, during a telephone conversation between a representative of VFC and the Reports Analysis Division (RAD) on May 12, 1981, RAD recommended that VFC request an advisory opinion (AOR) from the Commission regarding its activities. This telephone call by VFC's representative responded to RAD's request for additional information (RFAI), dated April 21, 1981. A second RFAI, dated May 15, 1981, was forwarded, as VFC had failed to respond in writing within the period specified by the April 21st RFAI.

8 2 0 4 0 3 1 1 6 4 5

copying machine. According to VFC, as the lessee of the machine, VFC received and paid all billings directly to the leasing company. Under an arrangement with VFC, CFFC reimbursed VFC for its portion of machine use. VFC disclosed to the Commission eight receipts from CFFC for shared copier, rent, and staff expenses in VFC's 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35. 2/

On June 5, 1981, the General Counsel determined that because this arrangement was one concerning past activity, the subject matter was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." Accordingly, the matter was referred for consideration under Pre-MUR status. VFC was notified of this determination and referral on June 5, 1981.

2/ This total represents the following:

Date	Amount
1/4/80	$200.00
1/4/80	200.00
2/29/80	200.00
2/29/80	300.00
3/31/80	100.00
3/31/80	100.00
6/3/80	184.00
6/12/80	504.35
	$1,788.35

VFC's request stated that the arrangement for shared copier services is no longer in effect. It made no mention, however, of an arrangement to share office rental and staff expenses. The latter two expense categories were the subject of the telephone conversation between RAD and a VFC representative on May 12, 1981, and also were revealed in VFC's Reports filed with the Commission.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Act, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds by CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

The arrangement between VFC and CFFC is distinguishable from the question previously considered by the Commission in Advisory Opinion 1978-67, 3/ in which a candidate for federal office and a candidate for state office were permitted to share the costs of combined campaign headquarters. The Commission stated therein that the Act and Commission regulations do not prohibit the shared use of campaign facilities by the federal and state candidates as long as the costs of the shared facilities (i.e., rent for office space and equipment, electricity, phone, etc.) were allocated between the respective campaigns in a manner that equitably reflected the actual use and benefit to each campaign. Further, only if the state candidate paid all of the expenses of the shared facilities, or paid in excess of an equitable allocation, was that candidate deemed to be making a contribution to the federal campaign. Additionally, a transfer of funds from the state candidate to the

---

3/ See Attachment 1.

federal candidate, albeit for the express purpose of defraying the state candidate's share of the campaign headquarters expenses, would have been unlawful under the Act if the state candidate had accepted funds that would have been prohibited as contributions, e.g., corporate funds permitted under state law.

In Advisory Opinion 1980-38, 4/ the Commission was presented with a question concerning an agreement between a federal candidate committee and a state candidate committee to share the costs of renting and operating a computer. Finding that the arrangement was permissable, the Commission emphasized that the federal committee could not accept any funds from the state committee which had been comingled with funds from entities prohibited by the Act. Accordingly, the Commission advised that if the state committee had accepted funds that would be prohibited as contributions under the Act, then the state committee must have established either: (a) a separate account into which only funds subject to the Act's limitations and prohibitions were deposited and from which such payments were made to the federal committee; or (b) demonstrate through a reasonable accounting method that whenever such payments were made, that the state committee had received sufficient funds subject to the Act's limitations and prohibitions to have made such payments to the federal committee.

The difference between the above-referenced Opinions and the present situation is that VFC received funds directly from CFFC, a corporation. Such a transfer may be violative of 2 U.S.C. § 441b.

4/ See Attachment 2.

RECOMMENDATION

1. Open a MUR.

2. Find reason to believe that Voters for Choice violated § 441b of the Federal Election Campaign Act of 1971, as amended.

3. Find reason to believe that Catholics for a Free Choice, Inc., violated § 441b of the Federal Election Campaign Act of 1971, as amended.

4. Approve the attached letters.

Charles N. Steele
General Counsel

Dec. 10, 1981
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

1. Advisory Opinion 1978-67
2. Advisory Opinion 1980-38
3. Reason to believe letter to Respondent committee, with enclosures
4. Reason to believe letter to Respondent corporation, with enclosures

RAD 81L-43

REPORTS ANALYSIS REFERRAL UPDATE

*ORIGIN: Advisory Opinion Request

DATE July 24, 1981

ANALYST ~~Penelope Harms~~ Pamela Brown

TO: OFFICE OF GENERAL COUNSEL
ATTENTION: Dennis Moss

TEAM CHIEF Roberta Werfel

COMPLIANCE REVIEW

THROUGH: STAFF DIRECTOR

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS

PRE-MUR No. 77(81)

DATE OF ORIGINAL REFERRAL N/A

VOTERS FOR CHOICE (C00110692)

**PURPOSE: INFORMATION

** RFAIs sent April 21, 1981 (Attachment #1):
(1) 1980 April 15 Quarterly Report - receipt of corporate funds
(2) 1980 July 20 Monthly Report - receipt of corporate funds; mathematical discrepancies within one report

** Telecon of May 12, 1981 regarding RFAIs (Attachment #2)

** Second Notice sent May 15, 1981 (Attachment #3)

** AOR received from committee May 18, 1981 (Attachment #4)

** Inadequate response received to July Monthly RFAI May 21, 1981 (Attachment #5)

** OGC response to AOR dated June 5, 1981 (Attachment #6)

** Telecon of June 16, 1981 regarding inadequate response (Attachment #7)

OUTCOME: (if applicable)

N/A

*Commission unit which initiated original Referral (e.g. AUDIT/RAD/OGC).
**INFORMATION or RESULTS OF RAD ACTION, as appropriate.

ATTACHMENT 1

September 19, 1978

AO 1978-67

Honorable Glenn M. Anderson
House of Representatives
Washington, D.CC. 20515

Dear Mr. Anderson:

This is in response to your letter of August 15, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposal to share the costs of a combined campaign headquarters.

Your letter states that a candidate for the California State Assembly, who resides in your Congressional District, has proposed shating the costs of a combined campaign headquarters. You note that California law permits corporate contributions for use in political campaigns for State office. In light of the Act's prohibitéon on corporate contributions to candidates for Federal office, you ask whether you may accept this proposal and share the costs of a combined campaign headquarters.

The Act defines "contribution" to mean "a gift, subscription, loan, advance, deposit of money or anything ofvxalue" made for the purpose of influencing the nomination or election of any person to Federal office. 2 U.SCC. §431(e). The Act and Commission regulations do not prohibit the shared use of campaign facilities by you and a State candidate as long as the costs of the shared facilities (i.e. rent for office space and equipment, elèctricity, phone, etc.) are allocated between your respective campaigns in a manner that equitably reflects the actual use and benefit to each campaign. See Commission regulations at 11 CFR 106.1 and §110.8(d)(3). Only if the State candidate pays all the expenses of the shared facilities or pays in excess of an equitable allocation, would that candidate be deemed to be making a contribution to your campaign.

Your share of the cost of these facilities would be regarded as an "expenditure" under the Act and may be paid to the commercial vendor directly or through the State candidate's account. It may also be paid through an escrow account which you and the State candidate may jointly establish solely for the purpose of making payments in one check to the commercial vendor of the shared facilities. A transfer of funds f from the State candidate to your campaign committee, albeit for the express purpose of defraying the State candidate's share of the campaign headquarters expenses, would be unlawful if the State candidate has accepted funds that would be prohibited as contributions under the Act.1/ The Commission points out that your expenditures for the campaign headquarters must be reported in accordance with 2 U.S.C. §434.

This response constitutes an advisory opinion concerning the application of a general rule of law as stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. 2 U.S.C. §437f.

Sincerely yours,

/s/

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosure (AO 1976-110)

1/Since California law permits corporate contributions to candidates for State office, the Act would prohibit contributions to a Federal candidate from a State campaign committee that had accepted corporate treasury funds. 2 U.S.C. §441b. See Advisory Opinion 1976-110, copy enclosed.

9/15/78

NBLitchfield:bwl:9/15/78

9/15/78

3 2 0 4 0 7 1 1 1 6 5 1

ATTACHMENT 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-38

Ms. Sue E. Wadel
Treasurer
Allen for Congress
532 East Polk Road
Ithaca, Michigan 48847

Dear Ms. Wadel:

This responds to your letter of April 9, 1980, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the reporting of certain expenses incurred by the Allen for Congress Committee in the course of sharing computer costs with a state candidate committee. Your request sets forth the following facts:

The Allen for Congress Committee ("the Committee") and a completely separate candidate committee (Michigan state legislative candidate committee) entered into an agreement jointly to rent a computer and jointly to enter into the data bank of the computer voter information. In that part of the legislative and congressional districts overlapped, the committees determined that the expenses for the entering of the data along with that portion of the computer rent allocable to this overlapping area, would be split evenly between the campaigns, and that each campaign would personally bear the expense of data entry and rent allocable to areas not overlapping. To facilitate bookkeeping, the committees decided that the Committee would pay directly all entry costs (salaries for keypunchers, withholding, etc.) and that the state candidate committee would pay directly both the security deposit and rental payments for the computer, with each committee reimbursing the other for those costs assignable to them. This course of action has been followed to date. As the deadline for the April 15 report neared, the committees had not finished entering all of the various voter information desired (entry will probably be finished within

a month), and hence have not been able to calculate the exact expenses to be charged each campaign. Therefore, the Committee has to date made all entry payments and the other organization has paid all computer expenses.

You first ask whether the Committee must report that a portion of the payments made for data entry are allocable to the state candidate committee and, if so, when and in what manner such reporting must be made. At the outset, the Commission notes that the agreement to share the expenses of the computer rental and data entry is permissible, provided that such costs are allocated between the respective committees in a manner that equitably reflects the actual use and benefit to each campaign. See 11 CFR 106.1 and 110.8(d)(3); Advisory Opinion 1978-67 (copy enclosed). In light of the agreement with the state candidate committee, the Committee's payments for data entry are not for the purpose of influencing the state candidate's election but rather for the purpose of influencing the election of Mr. Allen pursuant to 2 U.S.C. §431(8)(A)(i).

Therefore, the Committee must timely report all payments made during each relevant reporting period for data entry, as operating expenditures on behalf of Mr. Allen's campaign in accordance with 11 CFR 104.3(b)(2)(i). Any payments received by the Committee in the form of reimbursements from the state candidate committee for its share of the data entry costs are reportable by the Committee as receipts in the form of offsets to operating expenditures under 11 CFR 104.3(a)(3)(ix)(A)-(C). However, the state candidate committee is not a "political committee" as defined in 2 U.S.C. §431(4) and 11 CFR 100.5. Thus, any payments by the state candidate committee to the Committee for the purpose of defraying the state candidate's share of data entry expenses must be made with funds subject to the prohibitions and limitations of the Act. If the state candidate committee has accepted funds that would be prohibited as contributions under the Act, then the state candidate committee must either: a) establish a separate account into which only funds subject to the Act's limitations and prohibitions are deposited and from which such payments are made to the Committee; or b) demonstrate through a reasonable accounting method that whenever such payments are made, that the state candidate committee has received sufficient funds subject to the Act's limitations and prohibitions to make such payments to the Committee. Under either alternative the state candidate committee must, in addition, keep records which, upon request, shall be made available

for examination by the Commission. See e.g., 11 CFR 102.5(b)(1)(i)-(ii) and 100.7(a)(1)(i)(D) at 45 Fed. Reg. 15096, 15105-6 (March 7, 1980) effective April 1, 1980. The Commission notes that, at least as applied to the facts presented in your request, this opinion supersedes Advisory Opinions 1976-110 and 1978-67 (copies enclosed) with respect to payments from political organizations that are not "political committees" under the Act. The Commission expresses no opinion as to the effect of the laws of the State of Michigan on any such payments by the state candidate committee to the Committee.

Your second question asks whether the Committee must report its outstanding, but as yet incalculable, obligations to the state candidate committee for its share of computer rental and security deposit and, if so, when and in what manner such reporting must be made.

The Commission concludes that such outstanding obligations must be reported by the Committee. However, the precise manner in which such obligations must be reported depends upon whether the agreement between the committees was written or not. Payments made to the state candidate committee by the Committee for its share of the computer rental and security deposit constitute expenditures by the Committee on behalf of Mr. Allen's campaign. Under 11 CFR 100.8(a)(2), a written contract, promise or agreement to make an expenditure is an expenditure as of the date such contract, promise or obligation is made.

Therefore, if the agreement between the two committees to share expenses and reimburse one another is in the form of a writing, then the committee must report the obligation as an expenditure in the form of a debt (on Schedule D and on the appropriate summary page) as of the date of the writing. Where, as here, the precise sum of the obligation was not determined at the time of the writing and cannot be precisely calculated at the close of the reporting period, the Commission concludes that the Committee should make a reasonable estimate of the extent of its obligation and report such estimate as an expenditure in the form of a debt on Schedule D. Payments made by the Committee to discharge its obligations should be reported on Schedule B as expenditures when such payments are actually made. Any adjustment necessary to reflect a difference between the actual and the estimated expenditure should be made in subsequent reports in the form of a memorandum to Schedule D.

If, on the other hand, the agreement between the committees was not in the form of a writing, then the payments would be reportable as expenditures on behalf of Mr. Allen's campaign as of the date the payments are made. However, until the expenditure is made, the Committee must report the outstanding obligation to the state candidate committee according to the requirements stated in 11 CFR 104.11. The Commission expresses no opinion as to the effect of the law of the State of Michigan on such payments to the state candidate 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. 2 U.S.C. §437f.

Sincerely yours,

Robert O. Tiernan

Robert O. Tiernan
Chairman for the
Federal Election Commission

Enclosures

ATTACHMENT 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Kristina Kiehl, Treasurer
Voters for Choice
Box 4253
Takoma Park, Maryland 20912

Dear Ms. Kiehl:

On , 1981, the Federal Election Commission determined that there is reason to believe that your committee violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended, ("the Act") by receiving funds from Catholics for a Free Choice, Inc., during the period between January 4 and June 12, 1980. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Additionally, please submit answers to the enclosed questions within ten days of your receipt of this letter. Statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if you so desire. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form, stating the name, address and telephone number of such counsel,

and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Dennis Moss, the staff member assigned to this matter, at (202) 523-4057.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosures

General Counsel's Factual and Legal Analysis
Interrogatories
Procedures
Designation of Counsel Statement

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO.
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT Voters for Choice

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, it was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

activity that the requesting person plans to undertake in the future." 11 C.F.R. § 112.1(b). The matter was accordingly referred for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

INTERROGATORIES

RE: Voters for Choice ("VFC")

1. Submit an itemized statement of receipts for rent, staff and photocopying which were shared with CFFC during 1980.

2. Submit a copy of your lease for office space located at 1411 K Street, N.W., Washington, D.C., and for the lease of the photocopier from Savin Corporation.

3. How much space did CFFC occupy within the space leased by VFC?

4. Was there a formal agreement between VFC and CFFC for shared rent, staff, and photocopying? If so, submit a copy of same. If there was an informal agreement, please describe the terms of such informal agreement.

5. How many bank accounts did VFC maintain during 1980?

6. What was the purpose of each of said bank accounts?

7. Which of said bank accounts was used by VFC for the payment of office space, staff, and photocopying?

8. Into which of said accounts were funds deposited which had been received from CFFC for the payment of shared rent, staff, and photocopying during 1980?

(If necessary, provide responses on additional sheets)

DESCRIPTION OF PRELIMINARY PROCEDURES FOR PROCESSING POSSIBLE VIOLATIONS DISCOVERED BY THE FEDERAL ELECTION COMMISSION

Possible violations discovered during the normal course of the Commission's supervisory responsibilities shall be referred to the Enforcement Division of the Office of General Counsel where they are assigned a MUR (Matter Under Review) number, and assigned to a staff member.

Following review of the information which generated the MUR, a recommendation on how to proceed on the matter, which shall include preliminary legal and factual analysis, and any information compiled from materials available to the Commission shall be submitted to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that a possible violation of the Federal Election Campaign Act (FECA) may have occurred or is about to occur and that the Commission conduct an investigation of the matter; or (b) that the Commission find no reason to believe that a possible violation of the FECA has occurred and that the Commission close the file on the matter.

Thereafter, if the Commission decides by an affirmative vote of four (4) Commissioners that there is reason to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed, the Office of the General Counsel shall open an investigation into the matter. Upon notification of the Commission's finding(s), within 15 days a respondent(s) may submit any factual or legal materials relevant to the allegations. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for depositions, and to order answers to interrogatories. The respondent(s) may be contacted more than once by the Commission in its investigation.

82010511655

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL:

ADDRESS:

TELEPHONE:

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date   Signature

NAME:

ADDRESS:

HOME PHONE:

BUSINESS PHONE:

82010514557

If, during this period of investigation, the respondent(s) indicate a desire to enter into conciliation, the Office of General Counsel staff may begin the conciliation process prior to a finding of probable cause to believe a violation has been committed. Conciliation is an informal method of conference and persuasion to endeavor to correct or prevent a violation of the Federal Election Campaign Act (FECA). Most often, the result of conciliation is an agreement signed by the Commission and the respondent(s). The Conciliation Agreement must be adopted by four votes of the Commission before it becomes final. After signature by the Commission and the respondent(s), the Commission shall make public the Conciliation Agreement.

[If the investigation warrants], and no conciliation agreement is entered into prior to a probable cause to believe finding, the General Counsel must notify the respondent(s) of his intent to proceed to a vote on probable cause to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed. Included with the notification to the respondent(s) shall be a brief setting forth the position of the General Counsel on the legal and factual issues of the case. Within <u>15 days</u> of receipt of such brief, the respondent(s) may submit a brief posing the position of respondent(s) and replying to the brief of the General Counsel. Both briefs will then be filed with the Commission Secretary and will be considered by the Commission. Thereafter, if the Commission determines by an affirmative vote of four (4) Commissioners, that there is probable cause to believe that a violation of the FECA has been committed or is about to be committed conciliation must be undertaken for a period of at least 30 days but not more than 90 days. If the Commission is unable to correct or prevent any violation of the FECA through conciliation the Office of General Counsel may recommend that the Commission file a civil suit against the respondent(s) to enforce the Federal Election Campaign Act (FECA). Thereafter, the Commission may, upon an affirmative vote of four (4) Commissioners, institute civil action for relief in the District Court of the United States.

<u>See</u> 2 U.S.C. § 437g, 11 C.F.R. Part 111.

November 1980

ATTACHMENT 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Virginia Andary, Executive Director
Catholics for a Free Choice, Inc.
1411 K Street, N.W.
Washington, D.C. 20005

Dear Ms. Andary:

On , 1981, the Federal Election Commission determined that there is reason to believe that your firm violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") by transferring funds to Voters for Choice during the period between January 4 and June 12, 1980. The General Counsel's factual and legal analysis, which formed the basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter within ten days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against your firm, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if you so desire. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Dennis Moss, the staff member assigned to this matter, at (202) 523-4057.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO.
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT Catholics for a Free Choice, Inc.

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, it was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to

---

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

undertake in the future." 11 C.F.R. § 112.1(b). This matter was accordingly referred for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

**DESCRIPTION OF PRELIMINARY PROCEDURES
FOR PROCESSING POSSIBLE VIOLATIONS DISCOVERED BY THE
FEDERAL ELECTION COMMISSION**

Possible violations discovered during the normal course of the Commission's supervisory responsibilities shall be referred to the Enforcement Division of the Office of General Counsel where they are assigned a MUR (Matter Under Review) number, and assigned to a staff member.

Following review of the information which generated the MUR, a recommendation on how to proceed on the matter, which shall include preliminary legal and factual analysis, and any information compiled from materials available to the Commission shall be submitted to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that a possible violation of the Federal Election Campaign Act (FECA) may have occurred or is about to occur and that the Commission conduct an investigation of the matter; or (b) that the Commission find no reason to believe that a possible violation of the FECA has occurred and that the Commission close the file on the matter.

Thereafter, if the Commission decides by an affirmative vote of four (4) Commissioners that there is reason to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed, the Office of the General Counsel shall open an investigation into the matter. Upon notification of the Commission's finding(s), within 15 days a respondent(s) may submit any factual or legal materials relevant to the allegations. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for depositions, and to order answers to interrogatories. The respondent(s) may be contacted more than once by the Commission in its investigation.

If, during this period of investigation, the respondent(s) indicate a desire to enter into conciliation, the Office of General Counsel staff may begin the conciliation process prior to a finding of probable cause to believe a violation has been committed. Conciliation is an informal method of conference and persuasion to endeavor to correct or prevent a violation of the Federal Election Campaign Act (FECA). Most often, the result of conciliation is an agreement signed by the Commission and the respondent(s). The Conciliation Agreement must be adopted by four votes of the Commission before it becomes final. After signature by the Commission and the respondent(s), the Commission shall make public the Conciliation Agreement.

[If the investigation warrants], and no conciliation agreement is entered into prior to a probable cause to believe finding, the General Counsel must notify the respondent(s) of his intent to proceed to a vote on probable cause to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed. Included with the notification to the respondent(s) shall be a brief setting forth the position of the General Counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, the respondent(s) may submit a brief posing the position of respondent(s) and replying to the brief of the General Counsel. Both briefs will then be filed with the Commission Secretary and will be considered by the Commission. Thereafter, if the Commission determines by an affirmative vote of four (4) Commissioners, that there is probable cause to believe that a violation of the FECA has been committed or is about to be committed conciliation must be undertaken for a period of at least 30 days but not more than 90 days. If the Commission is unable to correct or prevent any violation of the FECA through conciliation the Office of General Counsel may recommend that the Commission file a civil suit against the respondent(s) to enforce the Federal Election Campaign Act (FECA). Thereafter, the Commission may, upon an affirmative vote of four (4) Commissioners, institute civil action for relief in the District Court of the United States.

82040514675

See 2 U.S.C. § 437g, 11 C.F.R. Part 111.

November 1980

28

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL:

ADDRESS:

TELEPHONE:

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date	Signature

NAME:

ADDRESS:

HOME PHONE:

BUSINESS PHONE:

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

81 DEC 10 P4: 37

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION 12-10-81

MUR # Pre-MUR 77
STAFF MEMBER(S)

Dennis Moss

SENSITIVE

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENTS' NAMES: Voters for Choice
Catholics for a Free Choice, Inc.

RELEVANT STATUTE: 2 U.S.C. § 441b(a)

INTERNAL REPORTS CHECKED: Committee Reports

FEDERAL AGENCIES CHECKED: None

GENERATION OF MATTER

This matter was initiated by a request for an advisory opinion from Voters for Choice ("VFC"), which was received on May 18, 1981. 1/

SUMMARY OF ALLEGATIONS

VFC, a political committee, requested an opinion as to the propriety of receiving funds from Catholics for a Free Choice ("CFFC"), an incorporated entity, as payment for the use of VFC's photo-

1/ As indicated in the Reports Analysis Referral Update of July 24, 1981, during a telephone conversation between a representative of VFC and the Reports Analysis Division (RAD) on May 12, 1981, RAD recommended that VFC request an advisory opinion (AOR) from the Commission regarding its activities. This telephone call by VFC's representative responded to RAD's request for additional information (RFAI), dated April 21, 1981. A second RFAI, dated May 15, 1981, was forwarded, as VFC had failed to respond in writing within the period specified by the April 21st RFAI.

copying machine. According to VFC, as the lessee of the machine, VFC received and paid all billings directly to the leasing company. Under an arrangement with VFC, CFFC reimbursed VFC for its portion of machine use. VFC disclosed to the Commission eight receipts from CFFC for shared copier, rent, and staff expenses in VFC's 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35. 2/

On June 5, 1981, the General Counsel determined that because this arrangement was one concerning past activity, the subject matter was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." Accordingly, the matter was referred for consideration under Pre-MUR status. VFC was notified of this determination and referral on June 5, 1981.

2/ This total represents the following:

Date	Amount
1/4/80	$200.00
1/4/80	200.00
2/29/80	200.00
2/29/80	300.00
3/31/80	100.00
3/31/80	100.00
6/3/80	184.00
6/12/80	504.35
	$1,788.35

VFC's request stated that the arrangement for shared copier services is no longer in effect. It made no mention, however, of an arrangement to share office rental and staff expenses. The latter two expense categories were the subject of the telephone conversation between RAD and a VFC representative on May 12, 1981, and also were revealed in VFC's Reports filed with the Commission.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Act, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds by CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

The arrangement between VFC and CFFC is distinguishable from the question previously considered by the Commission in Advisory Opinion 1978-67, 3/ in which a candidate for federal office and a candidate for state office were permitted to share the costs of combined campaign headquarters. The Commission stated therein that the Act and Commission regulations do not prohibit the shared use of campaign facilities by the federal and state candidates as long as the costs of the shared facilities (i.e., rent for office space and equipment, electricity, phone, etc.) were allocated between the respective campaigns in a manner that equitably reflected the actual use and benefit to each campaign. Further, only if the state candidate paid all of the expenses of the shared facilities, or paid in excess of an equitable allocation, was that candidate deemed to be making a contribution to the federal campaign. Additionally, a transfer of funds from the state candidate to the

---

3/ See Attachment 1.

federal candidate, albeit for the express purpose of defraying the state candidate's share of the campaign headquarters expenses, would have been unlawful under the Act if the state candidate had accepted funds that would have been prohibited as contributions, e.g., corporate funds permitted under state law.

In Advisory Opinion 1980-38, 4/ the Commission was presented with a question concerning an agreement between a federal candidate committee and a state candidate committee to share the costs of renting and operating a computer. Finding that the arrangement was permissable, the Commission emphasized that the federal committee could not accept any funds from the state committee which had been coningled with funds from entities prohibited by the Act. Accordingly, the Commission advised that if the state committee had accepted funds that would be prohibited as contributions under the Act, then the state committee must have established either: (a) a separate account into which only funds subject to the Act's limitations and prohibitions were deposited and from which such payments were made to the federal committee; or (b) demonstrate through a reasonable accounting method that whenever such payments were made, that the state committee had received sufficient funds subject to the Act's limitations and prohibitions to have made such payments to the federal committee.

The difference between the above-referenced Opinions and the present situation is that VFC received funds directly from CFFC, a corporation. Such a transfer may be violative of 2 U.S.C. § 441b.

4/ See Attachment 2.

RECOMMENDATION

1. Open a MUR.
2. Find reason to believe that Voters for Choice violated § 441b of the Federal Election Campaign Act of 1971, as amended.
3. Find reason to believe that Catholics for a Free Choice, Inc., violated § 441b of the Federal Election Campaign Act of 1971, as amended.

§ Close the file

4. Approve the ~~attached~~ appropriate letters.

Charles N. Steele
General Counsel

Dec. 10, 1981
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

8 2 0 4 0 3 4 6 8 1

Attachments

1. Advisory Opinion 1978-67
2. Advisory Opinion 1980-38
3. Reason to believe letter to Respondent committee, with enclosures
4. Reason to believe letter to Respondent corporation, with enclosures

Vote #1
12/18 TM: substitute
approve GC:
Fail 2-4 / TMc JP FR LA
absent

Vote #2 TMc 2-2 TT FR absent
JMc.:
→ Find RTB TMc JP FR LA.
→ Close
w/draw (Bef of MUR) (not wanting to open)

RAD [illegible]

REPORTS ANALYSIS REFERRAL UPDATE

*ORIGIN: Advisory Opinion Request

DATE July 24, 1981

ANALYST ~~Penelope Harms~~ Pamela Brown

TO: OFFICE OF GENERAL COUNSEL
ATTENTION: Dennis Moss

TEAM CHIEF Roberta Werfel

COMPLIANCE REVIEW

THROUGH: STAFF DIRECTOR

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS

PRE-MUR No. 77(81)

DATE OF ORIGINAL REFERRAL N/A

VOTERS FOR CHOICE (C00110692)

**PURPOSE: INFORMATION

** RFAIs sent April 21, 1981 (Attachment #1):
(1) 1980 April 15 Quarterly Report - receipt of corporate funds
(2) 1980 July 20 Monthly Report - receipt of corporate funds; mathematical discrepancies within one report

** Telecon of May 12, 1981 regarding RFAIs (Attachment #2)

** Second Notice sent May 15, 1981 (Attachment #3)

** AOR received from committee May 18, 1981 (Attachment #4)

** Inadequate response received to July Monthly RFAI May 21, 1981 (Attachment #5)

** OGC response to AOR dated June 5, 1981 (Attachment #6)

** Telecon of June 16, 1981 regarding inadequate response (Attachment #7)

OUTCOME: (if applicable)

N/A

*Commission unit which initiated original Referral (e.g. AUDIT/RAD/OGC).
**INFORMATION, or RESULTS OF RAD ACTION, as appropriate.

8204031463

ATTACHMENT 1

September 19, 1978

AO 1978-57

Honorable Glenn M. Anderson
House of Representatives
Washington, D.C. 20515

Dear Mr. Anderson:

This is in response to your letter of August 15, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposal to share the costs of a combined campaign headquarters.

Your letter states that a candidate for the California State Assembly, who resides in your Congressional District, has proposed sharing the costs of a combined campaign headquarters. You note that California law permits corporate contributions for use in political campaigns for State office. In light of the Act's prohibition on corporate contributions to candidates for Federal office, you ask whether you may accept this proposal and share the costs of a combined campaign headquarters.

The Act defines "contribution" to mean "a gift, subscription, loan, advance, deposit of money or anything of value" made for the purpose of influencing the nomination or election of any person to Federal office. 2 U.S.C. §431(e). The Act and Commission regulations do not prohibit the shared use of campaign facilities by you and a State candidate as long as the costs of the shared facilities (i.e. rent for office space and equipment, electricity, phone, etc.) are allocated between your respective campaigns in a manner that equitably reflects the actual use and benefit to each campaign. See Commission regulations at 11 CFR 106.1 and §110.8(d)(3). Only if the State candidate pays all the expenses of the shared facilities or pays in excess of an equitable allocation, would that candidate be deemed to be making a contribution to your campaign.

Your share of the cost of these facilities would be regarded as an "expenditure" under the Act and may be paid to the commercial vendor directly or through the State candidate's account. It may also be paid through an escrow account which you and the State candidate may jointly establish solely for the purpose of making payments in one check to the commercial vendor of the shared facilities. A transfer of funds f from the State candidate to your campaign committee, albeit for the express purpose of defraying the State candidate's share of the campaign headquarters expenses, would be unlawful if the State candidate has accepted funds that would be prohibited as contributions under the Act.1/ The Commission points out that your expenditures for the campaign headquarters must be reported in accordance with 2 U.S.C. §434.

This response constitutes an advisory opinion concerning the application of a general rule of law as stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. 2 U.S.C. §437f.

Sincerely yours,

/s/

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosure: (AO 1976-110)

1/Since California law permits corporate contributions to candidates for State office, the Act would prohibit contributions to a Federal candidate from a State campaign committee that had accepted corporate treasury funds. 2 U.S.C. §441b. See Advisory Opinion 1976-110, copy enclosed.

9/15/78

DEK 9/15/78

NBLitchfield:bwl:9/15/78

8 2 0 4 0 3 1 4 6 8 5

- 2 -

Your share of the cost of these facilities would be regarded as an "expenditure" under the Act and may be paid to the commercial vendor directly or through the State candidate's account. It may also be paid through an escrow account which you and the State [illegible]

ATTACHMENT 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-38

Ms. Sue E. Wadel
Treasurer
Allen for Congress
532 East Polk Road
Ithaca, Michigan 48847

Dear Ms. Wadel:

This responds to your letter of April 9, 1980, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the reporting of certain expenses incurred by the Allen for Congress Committee in the course of sharing computer costs with a state candidate committee. Your request sets forth the following facts:

The Allen for Congress Committee ("the Committee") and a completely separate candidate committee (Michigan state legislative candidate committee) entered into an agreement jointly to rent a computer and jointly to enter into the data bank of the computer voter information. In that part of the legislative and congressional districts overlapped, the committees determined that the expenses for the entering of the data along with that portion of the computer rent allocable to this overlapping area, would be split evenly between the campaigns, and that each campaign would personally bear the expense of data entry and rent allocable to areas not overlapping. To facilitate bookkeeping, the committees decided that the Committee would pay directly all entry costs (salaries for keypunchers, withholding, etc.) and that the state candidate committee would pay directly both the security deposit and rental payments for the computer, with each committee reimbursing the other for those costs assignable to them. This course of action has been followed to date. As the deadline for the April 15 report neared, the committees had not finished entering all of the various voter information desired (entry will probably be finished within

8 2 0 4 0 3 4 6 9 7

a month), and hence have not been able to calculate the exact expenses to be charged each campaign. Therefore, the Committee has to date made all entry payments and the other organization has paid all computer expenses.

You first ask whether the Committee must report that a portion of the payments made for data entry are allocable to the state candidate committee and, if so, when and in what manner such reporting must be made. At the outset, the Commission notes that the agreement to share the expenses of the computer rental and data entry is permissible, provided that such costs are allocated between the respective committees in a manner that equitably reflects the actual use and benefit to each campaign. See 11 CFR 106.1 and 110.8(d)(3); Advisory Opinion 1978-67 (copy enclosed). In light of the agreement with the state candidate committee, the Committee's payments for data entry are not for the purpose of influencing the state candidate's election but rather for the purpose of influencing the election of Mr. Allen pursuant to 2 U.S.C. §431(8)(A)(i).

Therefore, the Committee must timely report all payments made during each relevant reporting period for data entry, as operating expenditures on behalf of Mr. Allen's campaign in accordance with 11 CFR 104.3(b)(2)(i). Any payments received by the Committee in the form of reimbursements from the state candidate committee for its share of the data entry costs are reportable by the Committee as receipts in the form of offsets to operating expenditures under 11 CFR 104.3(a)(3)(ix)(A)-(C). However, the state candidate committee is not a "political committee" as defined in 2 U.S.C. §431(4) and 11 CFR 100.5. Thus, any payments by the state candidate committee to the Committee for the purpose of defraying the state candidate's share of data entry expenses must be made with funds subject to the prohibitions and limitations of the Act. If the state candidate committee has accepted funds that would be prohibited as contributions under the Act, then the state candidate committee must either: a) establish a separate account into which only funds subject to the Act's limitations and prohibitions are deposited and from which such payments are made to the Committee; or b) demonstrate through a reasonable accounting method that whenever such payments are made, that the state candidate committee has received sufficient funds subject to the Act's limitations and prohibitions to make such payments to the Committee. Under either alternative the state candidate committee must, in addition, keep records which, upon request, shall be made available

for examination by the Commission. See e.g., 11 CFR 102.5(b)(1)(i)-(ii) and 100.7(a)(1)(i)(D) at 45 Fed. Reg. 15096, 15105-6 (March 7, 1980) effective April 1, 1980. The Commission notes that, at least as applied to the facts presented in your request, this opinion supersedes Advisory Opinions 1976-110 and 1978-67 (copies enclosed) with respect to payments from political organizations that are not "political committees" under the Act. The Commission expresses no opinion as to the effect of the laws of the State of Michigan on any such payments by the state candidate committee to the Committee.

Your second question asks whether the Committee must report its outstanding, but as yet incalculable, obligations to the state candidate committee for its share of computer rental and security deposit and, if so, when and in what manner such reporting must be made.

The Commission concludes that such outstanding obligations must be reported by the Committee. However, the precise manner in which such obligations must be reported depends upon whether the agreement between the committees was written or not. Payments made to the state candidate committee by the Committee for its share of the computer rental and security deposit constitute expenditures by the Committee on behalf of Mr. Allen's campaign. Under 11 CFR 100.8(a)(2), a written contract, promise or agreement to make an expenditure is an expenditure as of the date such contract, promise or obligation is made.

Therefore, if the agreement between the two committees to share expenses and reimburse one another is in the form of a writing, then the committee must report the obligation as an expenditure in the form of a debt (on Schedule D and on the appropriate summary page) as of the date of the writing. Where, as here, the precise sum of the obligation was not determined at the time of the writing and cannot be precisely calculated at the close of the reporting period, the Commission concludes that the Committee should make a reasonable estimate of the extent of its obligation and report such estimate as an expenditure in the form of a debt on Schedule D. Payments made by the Committee to discharge its obligations should be reported on Schedule B as expenditures when such payments are actually made. Any adjustment necessary to reflect a difference between the actual and the estimated expenditure should be made in subsequent reports in the form of a memorandum to Schedule D.

If, on the other hand, the agreement between the committees was not in the form of a writing, then the payments would be reportable as expenditures on behalf of Mr. Allen's campaign as of the date the payments are made. However, until the expenditure is made, the Committee must report the outstanding obligation to the state candidate committee according to the requirements stated in 11 CFR 104.11. The Commission expresses no opinion as to the effect of the law of the State of Michigan on such payments to the state candidate 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. 2 U.S.C. §437f.

Sincerely yours,

Robert O. Tiernan

Robert O. Tiernan
Chairman for the
Federal Election Commission

Enclosures

8 2 0 4 0 3 1 4 6 9 1

ATTACHMENT 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Kristina Kiehl, Treasurer
Voters for Choice
Box 4253
Takoma Park, Maryland 20912

Dear Ms. Kiehl:

On , 1981, the Federal Election Commission determined that there is reason to believe that your committee violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended, ("the Act") by receiving funds from Catholics for a Free Choice, Inc., during the period between January 4 and June 12, 1980. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Additionally, please submit answers to the enclosed questions within ten days of your receipt of this letter. Statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if you so desire. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form, stating the name, address and telephone number of such counsel,

and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Dennis Moss, the staff member assigned to this matter, at (202) 523-4057.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosures

General Counsel's Factual and Legal Analysis
Interrogatories
Procedures
Designation of Counsel Statement

8 2 0 4 0 3 4 6 9 3

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO.
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT Voters for Choice

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, it was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to

---

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

8 2 0 1 9 3 1 1 6 9 4

activity that the requesting person plans to undertake in the future." 11 C.F.R. § 112.1(b). The matter was accordingly referred for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

INTERROGATORIES

RE: Voters for Choice ("VFC")

1. Submit an itemized statement of receipts for rent, staff and photocopying which were shared with CFFC during 1980.

2. Submit a copy of your lease for office space located at 1411 K Street, N.W., Washington, D.C., and for the lease of the photocopier from Savin Corporation.

3. How much space did CFFC occupy within the space leased by VFC?

4. Was there a formal agreement between VFC and CFFC for shared rent, staff, and photocopying? If so, submit a copy of same. If there was an informal agreement, please describe the terms of such informal agreement.

5. How many bank accounts did VFC maintain during 1980?

6. What was the purpose of each of said bank accounts?

7. Which of said bank accounts was used by VFC for the payment of office space, staff, and photocopying?

8. Into which of said accounts were funds deposited which had been received from CFFC for the payment of shared rent, staff, and photocopying during 1980?

(If necessary, provide responses on additional sheets)

DESCRIPTION OF PRELIMINARY PROCEDURES FOR PROCESSING POSSIBLE VIOLATIONS DISCOVERED BY THE FEDERAL ELECTION COMMISSION

Possible violations discovered during the normal course of the Commission's supervisory responsibilities shall be referred to the Enforcement Division of the Office of General Counsel where they are assigned a MUR (Matter Under Review) number, and assigned to a staff member.

Following review of the information which generated the MUR, a recommendation on how to proceed on the matter, which shall include preliminary legal and factual analysis, and any information compiled from materials available to the Commission shall be submitted to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that a possible violation of the Federal Election Campaign Act (FECA) may have occurred or is about to occur and that the Commission conduct an investigation of the matter; or (b) that the Commission find no reason to believe that a possible violation of the FECA has occurred and that the Commission close the file on the matter.

Thereafter, if the Commission decides by an affirmative vote of four (4) Commissioners that there is reason to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed, the Office of the General Counsel shall open an investigation into the matter. Upon notification of the Commission's finding(s), within <u>15 days</u> a respondent(s) may submit any factual or legal materials relevant to the allegations. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for depositions, and to order answers to interrogatories. The respondent(s) may be contacted more than once by the Commission in its investigation.

8204034697

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL:

ADDRESS:

TELEPHONE:

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

8 2 0 4 0 3 1 4 5 7 9

Date

Signature

NAME:

ADDRESS:

HOME PHONE:

BUSINESS PHONE:

8204037 4599

ATTACHMENT 4

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Ms. Virginia Andary, Executive Director
Catholics for a Free Choice, Inc.
1411 K Street, N.W.
Washington, D.C. 20005

Dear Ms. Andary:

On   , 1981, the Federal Election Commission determined that there is reason to believe that your firm violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") by transferring funds to Voters for Choice during the period between January 4 and June 12, 1980. The General Counsel's factual and legal analysis, which formed the basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter within ten days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against your firm, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if you so desire. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

8204031470 0

The investigation now being conducted will be confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Dennis Moss, the staff member assigned to this matter, at (202) 523-4057.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO.
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT **Catholics for a Free Choice, Inc.**

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, it was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to

---

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

undertake in the future." 11 C.F.R. § 112.1(b). This matter was accordingly referred for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

DESCRIPTION OF PRELIMINARY PROCEDURES
FOR PROCESSING POSSIBLE VIOLATIONS DISCOVERED BY THE
FEDERAL ELECTION COMMISSION

Possible violations discovered during the normal course of the Commission's supervisory responsibilities shall be referred to the Enforcement Division of the Office of General Counsel where they are assigned a MUR (Matter Under Review) number, and assigned to a staff member.

Following review of the information which generated the MUR, a recommendation on how to proceed on the matter, which shall include preliminary legal and factual analysis, and any information compiled from materials available to the Commission shall be submitted to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that a possible violation of the Federal Election Campaign Act (FECA) may have occurred or is about to occur and that the Commission conduct an investigation of the matter; or (b) that the Commission find no reason to believe that a possible violation of the FECA has occurred and that the Commission close the file on the matter.

Thereafter, if the Commission decides by an affirmative vote of four (4) Commissioners that there is reason to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed, the Office of the General Counsel shall open an investigation into the matter. Upon notification of the Commission's finding(s), within 15 days a respondent(s) may submit any factual or legal materials relevant to the allegations. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for depositions, and to order answers to interrogatories. The respondent(s) may be contacted more than once by the Commission in its investigation.

If, during this period of investigation, the respondent(s) indicate a desire to enter into conciliation, the Office of General Counsel staff may begin the conciliation process prior to a finding of probable cause to believe a violation has been committed. Conciliation is an informal method of conference and persuasion to endeavor to correct or prevent a violation of the Federal Election Campaign Act (FECA). Most often, the result of conciliation is an agreement signed by the Commission and the respondent(s). The Conciliation Agreement must be adopted by four votes of the Commission before it becomes final. After signature by the Commission and the respondent(s), the Commission shall make public the Conciliation Agreement.

[If the investigation warrants], and no conciliation agreement is entered into prior to a probable cause to believe finding, the General Counsel must notify the respondent(s) of his intent to proceed to a vote on probable cause to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed. Included with the notification to the respondent(s) shall be a brief setting forth the position of the General Counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, the respondent(s) may submit a brief posing the position of respondent(s) and replying to the brief of the General Counsel. Both briefs will then be filed with the Commission Secretary and will be considered by the Commission. Thereafter, if the Commission determines by an affirmative vote of four (4) Commissioners, that there is probable cause to believe that a violation of the FECA has been committed or is about to be committed conciliation must be undertaken for a period of at least 30 days but not more than 90 days. If the Commission is unable to correct or prevent any violation of the FECA through conciliation the Office of General Counsel may recommend that the Commission file a civil suit against the respondent(s) to enforce the Federal Election Campaign Act (FECA). Thereafter, the Commission may, upon an affirmative vote of four (4) Commissioners, institute civil action for relief in the District Court of the United States.

See 2 U.S.C. § 437g, 11 C.F.R. Part 111.

November 1980

8 2 0 1 9 1 4 7 0 5

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL:

ADDRESS:

TELEPHONE:

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

______________________ Date

______________________ Signature

NAME:

ADDRESS:

HOME PHONE:

BUSINESS PHONE:

PreMUR 77

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF
GENERAL COUNSEL

'81 MAY 18 P3:03

MEMORANDUM TO: GENERAL COUNSEL STEELE

FROM: MARJORIE W. EMMONS MWE

DATE: MAY 18, 1981

SUBJECT: LETTER FROM VOTERS FOR CHOICE REQUESTING AN ADVISORY OPINION

Transmitted herewith is the original letter from Voters for Choice requesting an advisory opinion. The letter was received by Chairman McGarry and is being forwarded to you at his request.

8 2 0 4 0 3 4 7 0 7

Ken Gross

VOTERS FOR CHOICE

P.O. Box 4253 Takoma Park, MD 20012

an independent pro-choice political committee ....

RECEIVED

81 MAY 18 A10: 05

81 MAY 18 P3: 06

May 13, 1981

Mr. John McGarry, Chairman
Federal Election Commission
1325 K Street, Northwest
Washington, DC 20463

RE: Request for Advisory Opinion

Dear Mr. McGarry:

In order to comply with the FEC regulations, Voters for Choice (VFC) requests an advisory opinion on VFC receiving funds from Catholics for a Free Choice (CFFC) for shared copier expenses.

In VFC May, July, August and 30 Day Post-General Election Reports, VFC disclosed receipts from CFFC for shared copier expenses. VFC contracted with Savin Corporation for a copier machine. However, VFC agreed with CFFC prior to getting the copier that the two organizations would share the expense of the machine. VFC received and paid all billings to Savin Corporation and CFFC reimbursed VFC for their portion of using the copier.

VFC is aware that CFFC is incorporated, however, did not think sharing expenses would be considered a contribution. Also, VFC has returned the copier machine and this arrangement is no longer in effect.

If you wish copies of our records on this matter, we will be happy to provide them to you. Please contact us regarding any further action we should take to rectify this situation.

Sincerely,

K Kiehl

Kristina Kiehl
Treasurer

KK/ec

June 5, 1981

Kristina Kiehl
Treasurer
Voters for Choice
P.O. Box 4253
Takoma Park, Maryland 20012

Dear Ms. Kiehl:

Your letter of May 13, 1981, has been referred to this office for consideration as an advisory opinion request concerning application of the Federal Election Campaign Act of 1971, as amended.

Your letter explains that in several reports filed with the Commission in 1980, Voters for Choice ("VFC") reported receipts from a corporation, Catholics for a Free Choice ("CFFC"). You explain that the reported payments from CFFC were to reimburse VFC for shared expenses of a copier machine which VFC leased from the Savin Corporation. VFC received and paid all billings from Savin, and CFFC made reimbursements for its shared use of the copier.

As you know, the Act permits any person to request an advisory opinion concerning application of the Act or Commission regulations to a specific activity or transaction which they propose to undertake. 2 U.S.C. §437f. However, Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." You stated that the copier has been returned and that the agreement for reimbursement from CFFC is no longer in effect. Accordingly, in the situation presented an advisory opinion may not be issued.

Kristina Kiehl
Page Two

We will, however, submit the matter to the Commission for consideration of whether any action should be taken. The fact that you have voluntarily brought these circumstances to our attention will be considered by this office as a mitigating factor in our further review. We will notify you if any further action is required, or whether the Commission considers the matter closed.

Sincerely yours,

Charles N. Steele
General Counsel

cc: John Gibson
Report Analysis Division NBLitchfield:vdmp:6/5/81

6-5-81

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM

TO: COMMISSION STAFF

FROM: ORLANDO B. POTTER
WILLIAM C. OLDAKER

SUBJECT: USE OF ADVISORY OPINION PROCEDURES FOR PAST FACTUAL SITUATIONS

DATE: JULY 26, 1979

The following procedures for advisory opinions were approved at the July 26, 1979, Commission Meeting.

1. Advisory opinion requests will be accepted and considered as such only where the factual situation presented is to occur after the date the request is received by the Commission.

2. Advisory opinion requests will be considered when submitted in circumstances where an opinion is sought as part of the requestor's "best efforts" to determine the legality of a contribution that has been accepted on a conditional basis. See Commission regulations at 11 CFR 103.3(b).

3. An advisory opinion request will be considered when the factual situation presented in the request is a continuing one with possible compliance consequences. For example, an issue involving a payroll check-off system that has already been put into operation for collecting political contributions could be presented in an otherwise proper advisory opinion request submitted after the system was in use.

ROUTING AND TRANSMITTAL SLIP

Date 6-5-81

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. CMS		
2.		
3.		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

Corrections made on Pg. 2 letter on possible compliance, no AO because past conduct.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
Brad	Phone No.

5041-102

☆U.S. G.P.O. 1980-311-156/4

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

8 0 0 4 7 1 3

[redacted]

[redacted]

810101713

ROUTING AND TRANSMITTAL SLIP Date 6-1-81

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. KAG (Gross)		
2. CNS		
3. To Brad		
4. Fr: KBG		
5.		

we have no special ltr - I would say open a PRE-MUR first. Process!

Action	File	Note and Return
Approval	~~For Clearance~~	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
~~Coordination~~	Justify	

REMARKS

Charlie thought we should say directly that we were looking at this as possible MUR, if that is how we're going to handle it. Its not RAD material since everything is past conduct. Maybe you have a different type of letter used in a case like this??

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
Brad	Phone No.

5041-102

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

☆U.S. G.P.O. 1980-311-156/4

8 0 0 [illegible] 7 1 4

Mark Kleinman

RDD

CMS:

I think we're in same box with this one as in R.# 39 (state candidate comm. giving to registered party committee)

Corporate payments of this type have been barred in the past. Re: AOR 1976-43, AFL-CIO case

[illegible]

RFAI's

Comm for Unused Fees

Bad thing, Res. !

& R.DD refunds

8201014715

SF. 6by Werfel

Letter

Elissa: Read (B) [illegible]

Do we have any closed or open MURs on either VFC or CFFC (see attached)

Thanx.

[illegible signature]

✓RBD

✓Donation

No feed 5/12/81

objn agenda 1-12-82

Gen 12-11

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

81 DEC 10 P4: 37

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION 12-10-81

MUR # Pre-MUR 77
STAFF MEMBER(S)
Dennis Moss

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENTS' NAMES: Voters for Choice
Catholics for a Free Choice, Inc.

SENSITIVE

RELEVANT STATUTE: 2 U.S.C. § 441b(a)

INTERNAL REPORTS CHECKED: Committee Reports

FEDERAL AGENCIES CHECKED: None

GENERATION OF MATTER

This matter was initiated by a request for an advisory opinion from Voters for Choice ("VFC"), which was received on May 18, 1981. 1/

SUMMARY OF ALLEGATIONS

VFC, a political committee, requested an opinion as to the propriety of receiving funds from Catholics for a Free Choice ("CFFC"), an incorporated entity, as payment for the use of VFC's photo-

1/ As indicated in the Reports Analysis Referral Update of July 24, 1981, during a telephone conversation between a representative of VFC and the Reports Analysis Division (RAD) on May 12, 1981, RAD recommended that VFC request an advisory opinion (AOR) from the Commission regarding its activities. This telephone call by VFC's representative responded to RAD's request for additional information (RFAI), dated April 21, 1981. A second RFAI, dated May 15, 1981, was forwarded, as VFC had failed to respond in writing within the period specified by the April 21st RFAI.

copying machine. According to VFC, as the lessee of the machine, VFC received and paid all billings directly to the leasing company. Under an arrangement with VFC, CFFC reimbursed VFC for its portion of machine use. VFC disclosed to the Commission eight receipts from CFFC for shared copier, rent, and staff expenses in VFC's 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35. 2/

On June 5, 1981, the General Counsel determined that because this arrangement was one concerning past activity, the subject matter was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." Accordingly, the matter was referred for consideration under Pre-MUR status. VFC was notified of this determination and referral on June 5, 1981.

2/ This total represents the following:

Date	Amount
1/4/80	$200.00
1/4/80	200.00
2/29/80	200.00
2/29/80	300.00
3/31/80	100.00
3/31/80	100.00
6/3/80	184.00
6/12/80	504.35
	$1,788.35

VFC's request stated that the arrangement for shared copier services is no longer in effect. It made no mention, however, of an arrangement to share office rental and staff expenses. The latter two expense categories were the subject of the telephone conversation between RAD and a VFC representative on May 12, 1981, and also were revealed in VFC's Reports filed with the Commission.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Act, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds by CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

The arrangement between VFC and CFFC is distinguishable from the question previously considered by the Commission in Advisory Opinion 1978-67, 3/ in which a candidate for federal office and a candidate for state office were permitted to share the costs of combined campaign headquarters. The Commission stated therein that the Act and Commission regulations do not prohibit the shared use of campaign facilities by the federal and state candidates as long as the costs of the shared facilities (i.e., rent for office space and equipment, electricity, phone, etc.) were allocated between the respective campaigns in a manner that equitably reflected the actual use and benefit to each campaign. Further, only if the state candidate paid all of the expenses of the shared facilities, or paid in excess of an equitable allocation, was that candidate deemed to be making a contribution to the federal campaign. Additionally, a transfer of funds from the state candidate to the

---

3/ See Attachment 1.

federal candidate, albeit for the express purpose of defraying the state candidate's share of the campaign headquarters expenses, would have been unlawful under the Act if the state candidate had accepted funds that would have been prohibited as contributions, e.g., corporate funds permitted under state law.

In Advisory Opinion 1980-38, 4/ the Commission was presented with a question concerning an agreement between a federal candidate committee and a state candidate committee to share the costs of renting and operating a computer. Finding that the arrangement was permissable, the Commission emphasized that the federal committee could not accept any funds from the state committee which had been comingled with funds from entities prohibited by the Act. Accordingly, the Commission advised that if the state committee had accepted funds that would be prohibited as contributions under the Act, then the state committee must have established either: (a) a separate account into which only funds subject to the Act's limitations and prohibitions were deposited and from which such payments were made to the federal committee; or (b) demonstrate through a reasonable accounting method that whenever such payments were made, that the state committee had received sufficient funds subject to the Act's limitations and prohibitions to have made such payments to the federal committee.

The difference between the above-referenced Opinions and the present situation is that VFC received funds directly from CFFC, a corporation. Such a transfer may be violative of 2 U.S.C. § 441b.

4/ See Attachment 2.

RECOMMENDATION

1. Open a MUR.

2. Find reason to believe that Voters for Choice violated § 441b of the Federal Election Campaign Act of 1971, as amended.

3. Find reason to believe that Catholics for a Free Choice, Inc., violated § 441b of the Federal Election Campaign Act of 1971, as amended.

4. Approve the attached letters.

Charles N. Steele
General Counsel

Dec. 10, 1981
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

1. Advisory Opinion 1978-67
2. Advisory Opinion 1980-38
3. Reason to believe letter to Respondent committee, with enclosures
4. Reason to believe letter to Respondent corporation, with enclosures

8 2 0 4 0 3 1 4 7 2 2

RAD [illegible]

REPORTS ANALYSIS REFERRAL UPDATE

*ORIGIN: Advisory Opinion Request

DATE July 24, 1981

TO: OFFICE OF GENERAL COUNSEL
ATTENTION: Dennis Moss

THROUGH: STAFF DIRECTOR

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS

ANALYST ~~Penelope Herman~~ Pamela Brown

TEAM CHIEF Roberta Werfel

COMPLIANCE REVIEW

PRE-MUR No. 77(81)

DATE OF ORIGINAL REFERRAL N/A

VOTERS FOR CHOICE (C00110692)

**PURPOSE: INFORMATION

** RFAIs sent April 21, 1981 (Attachment #1):
(1) 1980 April 15 Quarterly Report - receipt of corporate funds
(2) 1980 July 20 Monthly Report - receipt of corporate funds; mathematical discrepancies within one report

** Telecon of May 12, 1981 regarding RFAIs (Attachment #2)

** Second Notice sent May 15, 1981 (Attachment #3)

** AOR received from committee May 18, 1981 (Attachment #4)

** Inadequate response received to July Monthly RFAI May 21, 1981 (Attachment #5)

** OGC response to AOR dated June 5, 1981 (Attachment #6)

** Telecon of June 16, 1981 regarding inadequate response (Attachment #7)

OUTCOME: (if applicable)

N/A

8 2 0 4 0 1 4 7 2 1

*Commission unit which initiated original Referral (e.g. AUDIT/RAD/OGC).
**INFORMATION, or RESULTS OF RAD ACTION, as appropriate.

82040314722

ATTACHMENT 1

September 19, 1978

AO 1978-57

Honorable Glenn M. Anderson
House of Representatives
Washington, D.CC. 20515

Dear Mr. Anderson:

This is in response to your letter of August 15, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposal to share the costs of a combined campaign headquarters.

Your letter states that a candidate for the California State Assembly, who resides in your Congressional District, has proposed shating the costs of a combined campaign headquarters. You note that California law permits corporate contributions for use in political campaigns for State office. In light of the Act's prohibitänn on corporate contributions to candidates for Federal office, you ask whether you may accept this proposal and share the costs of a combined campaign headquarters.

The Act defines "contribution" to mean "a gift, subscription, loan, advance, deposit of money or anything ofvaalue" made for the purpose of influencing the nomination or election of any person to Federal office. 2 U.SCC. §431(e). The Act and Commission regulations do not prohibit the shared use of campaign facilities by you and a State candidate as long as the costs of the shared facilities (i.e. rent for office space and equipment, eläctricity, phone, etc.) are allocated between your respective campaigns in a manner that equitably reflects the actual use and benefit to each campaign. See Commission regulations at 11 CFR 106.1 and §110.8(d)(3). Only if the State candidate pays all the expenses of the shared facilities or pays in excess of an equitable allocation, would that candidate be deemed to be making a contribution to your campaign.

8 2 0 4 0 3 1 4 7 2 3

Your share of the cost of these facilities would be regarded as an "expenditure" under the Act and may be paid to the commercial vendor directly or through the State candidate's account. It may also be paid through an escrow account which you and the State candidate may jointly establish solely for the purpose of making payments in one check to the commercial vendor of the shared facilities. A transfer of funds f from the State candidate to your campaign committee, albeit for the express purpose of defraying the State candidate's share of the campaign headquarters expenses, would be unlawful if the State candidate has accepted funds that would be prohibited as contributions under the Act.[1] The Commission points out that your expenditures for the campaign headquarters must be reported in accordance with 2 U.S.C. §434.

This response constitutes an advisory opinion concerning the application of a general rule of law as stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. 2 U.S.C. §437f.

Sincerely yours,

/s/

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosure: (AO 1976-110)

1/ Since California law permits corporate contributions to candidates for State office, the Act would prohibit contributions to a Federal candidate from a State campaign committee that had accepted corporate treasury funds. 2 U.S.C. §441b. See Advisory Opinion 1976-110, copy enclosed.

NBL 9/15/78

NBLitchfield:bwl:9/15/78

DER 9/15/78

8 2 0 4 0 3 1 4 7 2 4

ATTACHMENT 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-38

Ms. Sue E. Wadel
Treasurer
Allen for Congress
532 East Polk Road
Ithaca, Michigan 48847

Dear Ms. Wadel:

This responds to your letter of April 9, 1980, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the reporting of certain expenses incurred by the Allen for Congress Committee in the course of sharing computer costs with a state candidate committee. Your request sets forth the following facts:

The Allen for Congress Committee ("the Committee") and a completely separate candidate committee (Michigan state legislative candidate committee) entered into an agreement jointly to rent a computer and jointly to enter into the data bank of the computer voter information. In that part of the legislative and congressional districts overlapped, the committees determined that the expenses for the entering of the data along with that portion of the computer rent allocable to this overlapping area, would be split evenly between the campaigns, and that each campaign would personally bear the expense of data entry and rent allocable to areas not overlapping. To facilitate bookkeeping, the committees decided that the Committee would pay directly all entry costs (salaries for keypunchers, withholding, etc.) and that the state candidate committee would pay directly both the security deposit and rental payments for the computer, with each committee reimbursing the other for those costs assignable to them. This course of action has been followed to date. As the deadline for the April 15 report neared, the committees had not finished entering all of the various voter information desired (entry will probably be finished within

a month), and hence have not been able to calculate the exact expenses to be charged each campaign. Therefore, the Committee has to date made all entry payments and the other organization has paid all computer expenses.

You first ask whether the Committee must report that a portion of the payments made for data entry are allocable to the state candidate committee and, if so, when and in what manner such reporting must be made. At the outset, the Commission notes that the agreement to share the expenses of the computer rental and data entry is permissible, provided that such costs are allocated between the respective committees in a manner that equitably reflects the actual use and benefit to each campaign. See 11 CFR 106.1 and 110.8(d)(3); Advisory Opinion 1978-67 (copy enclosed). In light of the agreement with the state candidate committee, the Committee's payments for data entry are not for the purpose of influencing the state candidate's election but rather for the purpose of influencing the election of Mr. Allen pursuant to 2 U.S.C. §431(8)(A)(i).

Therefore, the Committee must timely report all payments made during each relevant reporting period for data entry, as operating expenditures on behalf of Mr. Allen's campaign in accordance with 11 CFR 104.3(b)(2)(i). Any payments received by the Committee in the form of reimbursements from the state candidate committee for its share of the data entry costs are reportable by the Committee as receipts in the form of offsets to operating expenditures under 11 CFR 104.3(a)(3)(ix)(A)-(C). However, the state candidate committee is not a "political committee" as defined in 2 U.S.C. §431(4) and 11 CFR 100.5. Thus, any payments by the state candidate committee to the Committee for the purpose of defraying the state candidate's share of data entry expenses must be made with funds subject to the prohibitions and limitations of the Act. If the state candidate committee has accepted funds that would be prohibited as contributions under the Act, then the state candidate committee must either: a) establish a separate account into which only funds subject to the Act's limitations and prohibitions are deposited and from which such payments are made to the Committee; or b) demonstrate through a reasonable accounting method that whenever such payments are made, that the state candidate committee has received sufficient funds subject to the Act's limitations and prohibitions to make such payments to the Committee. Under either alternative the state candidate committee must, in addition, keep records which, upon request, shall be made available

8 2 0 1 0 3 1 4 7 2 7

11

for examination by the Commission. See e.g., 11 CFR 102.5(b)(1)(i)-(ii) and 100.7(a)(1)(i)(D) at 45 Fed. Reg. 15096, 15105-6 (March 7, 1980) effective April 1, 1980. The Commission notes that, at least as applied to the facts presented in your request, this opinion supersedes Advisory Opinions 1976-110 and 1978-67 (copies enclosed) with respect to payments from political organizations that are not "political committees" under the Act. The Commission expresses no opinion as to the effect of the laws of the State of Michigan on any such payments by the state candidate committee to the Committee.

Your second question asks whether the Committee must report its outstanding, but as yet incalculable, obligations to the state candidate committee for its share of computer rental and security deposit and, if so, when and in what manner such reporting must be made.

The Commission concludes that such outstanding obligations must be reported by the Committee. However, the precise manner in which such obligations must be reported depends upon whether the agreement between the committees was written or not. Payments made to the state candidate committee by the Committee for its share of the computer rental and security deposit constitute expenditures by the Committee on behalf of Mr. Allen's campaign. Under 11 CFR 100.8(a)(2), a written contract, promise or agreement to make an expenditure is an expenditure as of the date such contract, promise or obligation is made.

Therefore, if the agreement between the two committees to share expenses and reimburse one another is in the form of a writing, then the committee must report the obligation as an expenditure in the form of a debt (on Schedule D and on the appropriate summary page) as of the date of the writing. Where, as here, the precise sum of the obligation was not determined at the time of the writing and cannot be precisely calculated at the close of the reporting period, the Commission concludes that the Committee should make a reasonable estimate of the extent of its obligation and report such estimate as an expenditure in the form of a debt on Schedule D. Payments made by the Committee to discharge its obligations should be reported on Schedule B as expenditures when such payments are actually made. Any adjustment necessary to reflect a difference between the actual and the estimated expenditure should be made in subsequent reports in the form of a memorandum to Schedule D.

If, on the other hand, the agreement between the committees was not in the form of a writing, then the payments would be reportable as expenditures on behalf of Mr. Allen's campaign as of the date the payments are made. However, until the expenditure is made, the Committee must report the outstanding obligation to the state candidate committee according to the requirements stated in 11 CFR 104.11. The Commission expresses no opinion as to the effect of the law of the State of Michigan on such payments to the state candidate 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. 2 U.S.C. §437f.

Sincerely yours,

Robert O. Tiernan

Robert O. Tiernan
Chairman for the
Federal Election Commission

Enclosures

82040314730

ATTACHMENT 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Kristina Kiehl, Treasurer
Voters for Choice
Box 4253
Takoma Park, Maryland 20912

Dear Ms. Kiehl:

On , 1981, the Federal Election Commission determined that there is reason to believe that your committee violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended, ("the Act") by receiving funds from Catholics for a Free Choice, Inc., during the period between January 4 and June 12, 1980. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Additionally, please submit answers to the enclosed questions within ten days of your receipt of this letter. Statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if you so desire. <u>See</u> 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form, stating the name, address and telephone number of such counsel,

and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Dennis Moss, the staff member assigned to this matter, at (202) 523-4057.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosures

General Counsel's Factual and Legal Analysis
Interrogatories
Procedures
Designation of Counsel Statement

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO.
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT **Voters for Choice**

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, it was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to

---

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

92010314733

activity that the requesting person plans to undertake in the future." 11 C.F.R. § 112.1(b). The matter was accordingly referred for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

INTERROGATORIES

RE: Voters for Choice ("VFC")

1. Submit an itemized statement of receipts for rent, staff and photocopying which were shared with CFFC during 1980.

2. Submit a copy of your lease for office space located at 1411 K Street, N.W., Washington, D.C., and for the lease of the photocopier from Savin Corporation.

3. How much space did CFFC occupy within the space leased by VFC?

4. Was there a formal agreement between VFC and CFFC for shared rent, staff, and photocopying? If so, submit a copy of same. If there was an informal agreement, please describe the terms of such informal agreement.

5. How many bank accounts did VFC maintain during 1980?

6. What was the purpose of each of said bank accounts?

7. Which of said bank accounts was used by VFC for the payment of office space, staff, and photocopying?

8. Into which of said accounts were funds deposited which had been received from CFFC for the payment of shared rent, staff, and photocopying during 1980?

(If necessary, provide responses on additional sheets)

DESCRIPTION OF PRELIMINARY PROCEDURES
FOR PROCESSING POSSIBLE VIOLATIONS DISCOVERED BY THE
FEDERAL ELECTION COMMISSION

Possible violations discovered during the normal course of the Commission's supervisory responsibilities shall be referred to the Enforcement Division of the Office of General Counsel where they are assigned a MUR (Matter Under Review) number, and assigned to a staff member.

Following review of the information which generated the MUR, a recommendation on how to proceed on the matter, which shall include preliminary legal and factual analysis, and any information compiled from materials available to the Commission shall be submitted to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that a possible violation of the Federal Election Campaign Act (FECA) may have occurred or is about to occur and that the Commission conduct an investigation of the matter; or (b) that the Commission find no reason to believe that a possible violation of the FECA has occurred and that the Commission close the file on the matter.

Thereafter, if the Commission decides by an affirmative vote of four (4) Commissioners that there is reason to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed, the Office of the General Counsel shall open an investigation into the matter. Upon notification of the Commission's finding(s), within 15 days a respondent(s) may submit any factual or legal materials relevant to the allegations. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for depositions, and to order answers to interrogatories. The respondent(s) may be contacted more than once by the Commission in its investigation.

82040314736

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL:

ADDRESS:

TELEPHONE:

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date	Signature

NAME:

ADDRESS:

HOME PHONE:

BUSINESS PHONE:

82040314738

ATTACHMENT 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Virginia Andary, Executive Director
Catholics for a Free Choice, Inc.
1411 K Street, N.W.
Washington, D.C. 20005

Dear Ms. Andary:

On , 1981, the Federal Election Commission determined that there is reason to believe that your firm violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") by transferring funds to Voters for Choice during the period between January 4 and June 12, 1980. The General Counsel's factual and legal analysis, which formed the basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter within ten days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against your firm, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if you so desire. See 11 C.F.R. § 111.18(d).

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Dennis Moss, the staff member assigned to this matter, at (202) 523-4057.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO.
STAFF MEMBER(S) & TEL. NO.
Dennis Moss
(202) 523-4057

RESPONDENT Catholics for a Free Choice, Inc.

SOURCE OF MUR: I N T E R N A L L Y   G E N E R A T E D

SUMMARY OF ALLEGATIONS

On May 18, 1981, Voters for Choice ("VFC"), a political committee, submitted a request for an advisory opinion as to the propriety of receiving funds from Catholics for a Free Choice, Inc. ("CFFC"), a corporation, as payment for the use of VFC's copying machine. According to VFC's request, VFC, as lessee of the machine, received and paid all billings directly to the leasing company. Under this arrangement, CFFC reimbursed VFC for its portion of machine use. In addition, VFC disclosed to the Commission receipts from CFFC for shared copier, rent, and staff expenses in its 1980 April 15 Quarterly and July 20 Monthly Reports, which totaled $1,788.35.[1]

On June 5, 1981, the General Counsel determined and advised VFC that because the aforementioned arrangement was one concerning past activity, it was an inappropriate question for the issuance of an advisory opinion. Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to

---

1 This disclosure concerning the shared rent and staff expenses was not mentioned by VFC in its request for an advisory opinion.

undertake in the future." 11 C.F.R. § 112.1(b). This matter was accordingly referred for consideration of whether or not further action by the Commission was warranted.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(a) makes it unlawful for a corporation to make a contribution or expenditure in connection with any election. Under the Federal Election Campaign Act of 1971 ("the Act"), as amended, "contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with a federal election. 2 U.S.C. § 441b(b)(2). In the transference of funds from CFFC to VFC, VFC and CFFC may have violated the Act's prohibition against corporate contributions and expenditures.

DESCRIPTION OF PRELIMINARY PROCEDURES FOR PROCESSING POSSIBLE VIOLATIONS DISCOVERED BY THE FEDERAL ELECTION COMMISSION

Possible violations discovered during the normal course of the Commission's supervisory responsibilities shall be referred to the Enforcement Division of the Office of General Counsel where they are assigned a MUR (Matter Under Review) number, and assigned to a staff member.

Following review of the information which generated the MUR, a recommendation on how to proceed on the matter, which shall include preliminary legal and factual analysis, and any information compiled from materials available to the Commission shall be submitted to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that a possible violation of the Federal Election Campaign Act (FECA) may have occurred or is about to occur and that the Commission conduct an investigation of the matter; or (b) that the Commission find no reason to believe that a possible violation of the FECA has occurred and that the Commission close the file on the matter.

Thereafter, if the Commission decides by an affirmative vote of four (4) Commissioners that there is reason to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed, the Office of the General Counsel shall open an investigation into the matter. Upon notification of the Commission's finding(s), within 15 days a respondent(s) may submit any factual or legal materials relevant to the allegations. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for depositions, and to order answers to interrogatories. The respondent(s) may be contacted more than once by the Commission in its investigation.

If, during this period of investigation, the respondent(s) indicate a desire to enter into conciliation, the Office of General Counsel staff may begin the conciliation process prior to a finding of probable cause to believe a violation has been committed. Conciliation is an informal method of conference and persuasion to endeavor to correct or prevent a violation of the Federal Election Campaign Act (FECA). Most often, the result of conciliation is an agreement signed by the Commission and the respondent(s). The Conciliation Agreement must be adopted by four votes of the Commission before it becomes final. After signature by the Commission and the respondent(s), the Commission shall make public the Conciliation Agreement.

[If the investigation warrants], and no conciliation agreement is entered into prior to a probable cause to believe finding, the General Counsel must notify the respondent(s) of his intent to proceed to a vote on probable cause to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed. Included with the notification to the respondent(s) shall be a brief setting forth the position of the General Counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, the respondent(s) may submit a brief posing the position of respondent(s) and replying to the brief of the General Counsel. Both briefs will then be filed with the Commission Secretary and will be considered by the Commission. Thereafter, if the Commission determines by an affirmative vote of four (4) Commissioners, that there is probable cause to believe that a violation of the FECA has been committed or is about to be committed conciliation must be undertaken for a period of at least 30 days but not more than 90 days. If the Commission is unable to correct or prevent any violation of the FECA through conciliation the Office of General Counsel may recommend that the Commission file a civil suit against the respondent(s) to enforce the Federal Election Campaign Act (FECA). Thereafter, the Commission may, upon an affirmative vote of four (4) Commissioners, institute civil action for relief in the District Court of the United States.

See 2 U.S.C. § 437g, 11 C.F.R. Part 111.

November 1980

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL:

ADDRESS:

TELEPHONE:

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date	Signature

NAME:

ADDRESS:

HOME PHONE:

BUSINESS PHONE:

D
RAD 81L-43

REPORTS ANALYSIS REFERRAL UPDATE

*ORIGIN: Advisory Opinion Request

DATE July 24, 1981

TO: OFFICE OF GENERAL COUNSEL
ATTENTION: Dennis Moss

THROUGH: STAFF DIRECTOR

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS

ANALYST Penelope Harms pbh

TEAM CHIEF Roberta Werfel RBW

COMPLIANCE REVIEW

PRE-MUR No. 77(81)

DATE OF ORIGINAL REFERRAL N/A

VOTERS FOR CHOICE (C00110692)

**PURPOSE: INFORMATION

** RFAIs sent April 21, 1981 (Attachment #1):
(1) 1980 April 15 Quarterly Report - receipt of corporate funds
(2) 1980 July 20 Monthly Report - receipt of corporate funds; mathematical discrepancies within one report

** Telecon of May 12, 1981 regarding RFAIs (Attachment #2)

** Second Notice sent May 15, 1981 (Attachment #3)

** AOR received from committee May 18, 1981 (Attachment #4)

** Inadequate response received to July Monthly RFAI May 21, 1981 (Attachment #5)

** OGC response to AOR dated June 5, 1981 (Attachment #6)

** Telecon of June 16, 1981 regarding inadequate response (Attachment #7)

OUTCOME: (if applicable)

N/A

*Commission unit which initiated original Referral (e.g. AUDIT RAD OGC).
**INFORMATION, or RESULTS OF RAD ACTION, as appropriate.

8 1 0 4 0 1 1 7 1 5

ATTACHMENT 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 21, 1981

Kristina Kiehl, Treasurer
Voters for Choice
1411 K St., N.W. #1100
Washington, DC 20005

Identification No: C00110692

Reference: April 15th Quarterly Report (1/1/80-3/31/80)

Dear Ms. Kiehl:

This letter is prompted by the Commission's preliminary review of your April Quarterly Report. The review raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act. An itemization of these areas follows:

-Schedule A for Line 17 of the Detailed Summary Page discloses several receipts from Catholics for a Free Choice for shared rent, staff and copying (pertinent portion attached). Catholics for a Free Choice became incorporated April 2, 1979, and, as a corporation, is prohibited from making contributions in connection with any Federal election under 2 U.S.C. 441b of the Federal Election Campaign Act. A contribution, as defined in 2 U.S.C. 431(8)(A), is any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value. Enclosed please find a copy of Advisory Opinion 1978-67 that refers to a similar situation.

If you have received corporate funds, the Commission recommends that you refund the full amounts. (Any refund should be disclosed on Schedule B for Line 26 of your next report.) Although the Commission may take further legal steps concerning the acceptance of corporate funds, your prompt refund of the money will be taken into consideration.

An amendment to your original report correcting the above problems should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll free number, (800) 424-9530. My local number is (202) 357-0026.

Sincerely,

Penny Harms

Penny Harms
Reports Analyst
Reports Analysis Division

8 9 0 4 0 1 4 1 7 3 9

Name of Committee (in Full)
[illegible] FOR CHOICE

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Catholics for a Free Choice 1411 K Street NW Washington, DC 20005	shared rent and staff	1/4/80 2/4/80 2/29/80	300.00 300.00 300.00
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation Aggregate Year-to-Date ▸ $		
B. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
		2/29/80 3/31/80 3/31/80	300.00 100.00 100.00
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation Aggregate Year-to-Date ▸ $		
C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation Aggregate Year-to-Date ▸ $		
D. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation Aggregate Year-to-Date ▸ $		
E. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation Aggregate Year-to-Date ▸ $		
F. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation Aggregate Year-to-Date ▸ $		
G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation Aggregate Year-to-Date ▸ $		

SUBTOTAL of Receipts This Page (optional) 1100.00

TOTAL This Period (last page this line number only) 1100.00

8 0 1 8 0 4 7 4 7 5 0

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

April 21, 1981

Kristina Kiehl, Treasurer
[illegible] for Choice
[illegible] St., N.W. #1100
Washington, DC 200[illegible]

Identification No: C00110692

Reference: July Monthly Report (6/1/80–6/30/80) and Amendment

Dear Ms. Kiehl:

This letter is prompted by the Commission's preliminary review of your July Monthly Report and Amendment. The review raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act. An itemization of these areas follows:

- Schedule A for Line 17 of the Detailed Summary Page discloses two receipts from Catholics for a Free Choice for shared copying (pertinent portion attached.) Catholics for a Free Choice became incorporated April 2, 1979, and, as a corporation, is prohibited from making contributions in connection with any Federal election under 2 U.S.C. 441b of the Federal Election Campaign Act. A contribution, as defined in 2 U.S.C. 431(8)(A), is any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services, or anything of value.

  If you have received corporate funds, the Commission recommends that you refund the full amount. (Any refund should be disclosed on Schedule B for Line 26 of your next report.) Although the Commission may take further steps concerning the acceptance of corporate funds, your prompt refund of the money will be taken into consideration.

- Your amended July Monthly Report discloses $8,150 in individual contributions in addition to those shown on the original report. Although you have provided a note that "these are contributions to a consultant who did a fundraiser for us. All income has already been reported.", it does not appear that these receipts have been included in the total receipts for the period. Please clarify this discrepancy.

An amendment to your original report correcting the above problems should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll free number, (800) 424-9530. My local number is (202) 357-0026.

Sincerely,

Penny Harms

Penny Harms
Reports Analyst
Reports Analysis Division

8 1 0 3 1 0 4 1 7 7 5

SCHEDULE A

ITEMIZED RECEIPTS

- Other [illegible] —

Page 1 of 1 for 6/[illegible]
Line Number [illegible]
Use separate schedule(s) for each category of the Detailed Summary Page

Any information copied from such Reports or Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)
VOTERS FOR CHOICE

A. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Catholics for Choice 1411 K St NW DC 20005 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer: Shared [illegible] Occupation: Aggregate Year-to-Date—$	6/1/80 9/1/80	184.00 504.35
B. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date—$	Date (month, day, year)	Amount of Each Receipt This Period
C. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date—$	Date (month, day, year)	Amount of Each Receipt This Period
D. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date—$	Date (month, day, year)	Amount of Each Receipt This Period
E. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date—$	Date (month, day, year)	Amount of Each Receipt This Period
F. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date—$	Date (month, day, year)	Amount of Each Receipt This Period
G. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date—$	Date (month, day, year)	Amount of Each Receipt This Period

SUBTOTAL of Receipts This Page (optional)	—
TOTAL This Period (last page this line number only)	688.35

ATTACHMENT 2

TELECON

TO: Eloise Carson, VOTERS FOR CHOICE 589-5974

FROM: Penny Harms, analyst

DATE: May 12, 1981

I called Eloise back after a call from her yesterday regarding an RFAI on the committee's reports and their disclosure of receipts from Catholic for a Free Choice, an incorporated organization. These receipts were reimbursement for shared facilities, ~~xxxx~~ copying services, staff, etc. According to Eloise, this arrangement is no longer in effect. She asked how she should go about responding to my RFAI.

I discussed the situation with Rob Snow, who suggested the committee request an Advisory Opionion of the Commission. I passed this along to Eloise, advising her to include the fact that they were the main tenant, that they received the bills, and in turn were remibursed by Catholics, that they are aware that Catholics is x incorporated, that they have records of the bills, and that they would like the Commission's advice on what they should do to rectify the situation to bring them into full compliance with the law. They will be submitting an AOR/

ATTACHMENT 3

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

May 15, 1981

Kristina Kiehl, Treasurer
Voters for Choice
1411 K St., N.W. #1100
Washington, DC 20005

Identification No: C00110692

Reference: April 15th Quarterly (1/1/80 - 3/31/80), July 20th Monthly (6/1/80 - 6/30/80) and 30 Day Post-General Election (10/16/80 - 11/24/80) Reports

Dear Ms. Kiehl:

This letter is to inform you that as of this date, the Commission has not received your response to our requests for additional information, dated April 21, 1981. Those notices requested information essential to full public disclosure of your Federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). Copies of our original requests are enclosed.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Penny Harms on our toll-free number (800)424-9530 or our local number (202)357-0026.

Sincerely,

John D. Gibson
John D. Gibson
Acting Assist. Staff Director
Reports Analysis Division

Enclosure

8 2 0 4 0 3 1 4 7 5 7

ATTACHMENT 4

ACC # 4646

VOTERS FOR CHOICE

P.O. Box 4253 Takoma Park, MD 20012

an independent pro-choice political committee ....

81 MAY 18 A10: 05

May 13, 1981

1 MAY 18 P3: 06

Mr. John McGarry, Chairman
Federal Election Commission
1325 K Street, Northwest
Washington, DC 20463

RE: Request for Advisory Opinion

Dear Mr. McGarry:

In order to comply with the FEC regulations, Voters for Choice (VFC) requests an advisory opinion on VFC receiving funds from Catholics for a Free Choice (CFFC) for shared copier expenses.

In VFC May, July, August and 30 Day Post-General Election Reports, VFC disclosed receipts from CFFC for shared copier expenses. VFC contracted with Savin Corporation for a copier machine. However, VFC agreed with CFFC prior to getting the copier that the two organizations would share the expense of the machine. VFC received and paid all billings to Savin Corporation and CFFC reimbursed VFC for their portion of using the copier.

VFC is aware that CFFC is incorporated, however, did not think sharing expenses would be considered a contribution. Also, VFC has returned the copier machine and this arrangement is no longer in effect.

If you wish copies of our records on this matter, we will be happy to provide them to you. Please contact us regarding any further action we should take to rectify this situation.

Sincerely,

K Kiehl

Kristina Kiehl
Treasurer

KK/ec

ATTACHMENT 5

P.O. Box 4253 Takoma Park, MD 20012

or Independent

May 19, 1981

Ms. Penny Harms
Federal Election Commission
1325 K Street, Northwest
Washington, DC 20463

Reference: Review of July Monthly Report & Amendment

Dear Ms. Harms:

In the Voters for Choice (VFC) amendedrreport to the FEC we disclosed $5,150 in individual contributions. We are unsure how to clarify this discrepancy.

VFC contracted with a firm in California to conduct a fundraiser. The firm opened a separate checking account in California in the name of Voters for Choice. Therefore, Voters for Choice never actually received this money, although the checks were written to VFC. The firm in California paid the expenses for arranging the fundraiser out of the separate checking account. VFC was suppose to receive all the money after the fundraiser, however, the fundraiser was cancelled and the event lost money, even though some money was collected.

Due to the unusual circumstances of the receipt and expenditure of this money, we were unsure how to report it. Please let us know what further action should be taken to correct this error.

Sincerely,

Kristina Kiehl

Kristina Kiehl
Treasurer

ATTACHMENT 6

June 5, 1981

Kristina Kiehl
Treasurer
Voters for Choice
P.O. Box 4253
Takoma Park, Maryland 20012

Dear Ms. Kiehl:

Your letter of May 13, 1981, has been referred to this office for consideration as an advisory opinion request concerning application of the Federal Election Campaign Act of 1971, as amended.

Your letter explains that in several reports filed with the Commission in 1980, Voters for Choice ("VFC") reported receipts from a corporation, Catholics for a Free Choice ("CFFC"). You explain that the reported payments from CFFC were to reimburse VFC for shared expenses of a copier machine which VFC leased from the Savin Corporation. VFC received and paid all billings from Savin, and CFFC made reimbursements for its shared use of the copier.

As you know, the Act permits any person to request an advisory opinion concerning application of the Act or Commission regulations to a specific activity or transaction which they propose to undertake. 2 U.S.C. §437f. However, Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." You stated that the copier has been returned and that the agreement for reimbursement from CFFC is no longer in effect. Accordingly, in the situation presented an advisory opinion may not be issued.

We will, however, submit the matter to the Commission for consideration of whether any action should be taken. The fact that you have voluntarily brought these circumstances to our attention will be considered by this office as a mitigating factor in our further review. We will notify you if any further action is required, or whether the Commission considers the matter closed.

Sincerely yours,

Charles N. Steele
General Counsel

cc: John Gibson
Report Analysis Division NBLitchfield:vdmp:6/5/81

6-5-81

8 2 0 4 0 3 1 4 7 5 4

ATTACHMENT 7

MEMORANDUM: FOR FILES **ANALYST:** Penny Harm

RE: TELECON

FROM: Eloise Carron, who works on the committee's reports

DATE: June 16, 1981

NAME OF COMMITTEE: VOTERS FOR CHOICE, 589-5?25

Eloise was returning my call of June 8. Previously I had questioned, in an [illegible], receipts totalling $8,150 disclosed on an amendment to the committee's July Monthly report. The money was taken in for a fundraiser by an agent out in California, who had set up an account in the committee's name. I asked Eloise to include these receipts in the total receipts for the period, disclose the additional depository, and report any costs associated with the fundraiser.

The fundraiser was cancelled, apparently because it was losing money. Voters for Choice was sending money from their account here to try to help cover expenses. I asked that the committee report this money along with any other activity involved with the fundraiser.

The bookkeeper will be out of town for two weeks. Since she is the only one with all the info on the defunct fundraiser, Eloise said the amendment fxr supplying the additional info would be less than immediate in reaching us. I asked that it be filed as soon as possible.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 1, 1981

MEMORANDUM

TO: File

FROM: Dennis Moss DM

RE: Pre MUR 77

Penny Harms from Reports Analysis Division telephoned to report that additional information on Voters for Choice will soon be forwarded to OGC. A General Counsel's report, taking into account this update information will be prepared at that time.

To: Ken Gross

Ken:

Haven't talked to RAD
sent them informational
copy so they would know
we were looking at it
and suspend RAD tracking
until we handled it in
some way.

I thought we had
decided to pre-MUR
it and get Comm's
acquiescence to take no
further action. Maybe
MUR re Comm. for
Survival of Free Congress
would cause us to go
forward?? [illegible]

8201031475 9

ROUTING AND TRANSMITTAL SLIP

Date

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. ~~Ken Cross~~		
2.		
3. Brad		
4.		
5.		

	Action		File		Note and Return
	Approval		For Clearance		Per Conversation
	As Requested		For Correction		Prepare Reply
	Circulate		For Your Information		See Me
	Comment		Investigate		Signature
	Coordination		Justify		

REMARKS

Brad, I supposed to do something with this?, or did you talk to Gibson & suggest handling thru RAD? Have we ever done that before?

We could pursue as PEF-ever but I don't like it, Brad

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Litchfield

Room No.—Bldg.

Phone No.

5041-102

U.S. G.P.O. 1980-311-156/4

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

0031117569

ROUTING AND TRANSMITTAL SLIP Date 6-8-81

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. KAG (Grass)		
2. ENS		
3. To Brad		
4. Cc: KBt		
5.		

we have no special etc - I want a paragraph on PRE-[illegible] [illegible] owners

Action		File		Note and Return	
Approval		For Clearance		Per Conversation	
As Requested		For Correction		Prepare Reply	
Circulate		For Your Information		See Me	
Comment		Investigate		Signature	
Coordination		Justify			

REMARKS

Charlie thought we should say directly that we were looking ~~at~~ this as possible MVR, if that is how we're going to handle it, its not BOS material since everything is past conduct.

Maybe you have a different type of letter used in a case like this??

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
Brad	Phone No.

5041-102

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

☆U.S. G.P.O. 1980-311-156/4

ROUTING AND TRANSMITTAL SLIP Date 6-5-81

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. CNS		
2.		
3.		
4.		
5.		

	Action		File		Note and Return
	Approval		For Clearance		Per Conversation
	As Requested		For Correction		Prepare Reply
	Circulate		For Your Information		See Me
	Comment		Investigate		Signature
	Coordination		Justify		

REMARKS

Corrections made in Pg. 2 letter on possible compliance, no PD because past conduct.

8201031-17717

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
Reed	Phone No.

5041-102
☆U.S. G.P.O. 1980-311-156 4

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

R.O.D.
Mark
Klienmar

CMS:

I think we're in same box with this one as in R# 39 (state candidate comm. giving to registered party committee)

Corporate payments of this type have been barred in the past. Re: BoR 1996-43, AFL-CIO case

Dan

9 2 0 4 0 3 1 4 7 7 3

RFA?

CMS

far [illegible] Second line

Sound
[illegible]

R.O.D.
reframe

GCC # 4696

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF
GENERAL COUNSEL

'81 MAY 18 P3:03

MEMORANDUM TO: GENERAL COUNSEL STEELE

FROM: MARJORIE W. EMMONS MWE

DATE: MAY 18, 1981

SUBJECT: LETTER FROM VOTERS FOR CHOICE REQUESTING AN ADVISORY OPINION

Transmitted herewith is the original letter from Voters for Choice requesting an advisory opinion. The letter was received by Chairman McGarry and is being forwarded to you at his request.

8 2 0 4 0 3 1 4 7 7 3

CCC # 4696

VOTERS FOR CHOICE

P.O. Box 4253 Takoma Park, MD 20012

an independent pro-choice political committee ....

RECEIVED OFFICE OF THE COMMISSION

81 MAY 18 A10: 05

May 13, 1981

81 MAY 18 P3: 06

Mr. John McGarry, Chairman
Federal Election Commission
1325 K Street, Northwest
Washington, DC 20463

RE: Request for Advisory Opinion

Dear Mr. McGarry:

In order to comply with the FEC regulations, Voters for Choice (VFC) requests an advisory opinion on VFC receiving funds from Catholics for a Free Choice (CFFC) for shared copier expenses.

In VFC May, July, August and 30 Day Post-General Election Reports, VFC disclosed receipts from CFFC for shared copier expenses. VFC contracted with Savin Corporation for a copier machine. However, VFC agreed with CFFC prior to getting the copier that the two organizations would share the expense of the machine. VFC received and paid all billings to Savin Corporation and CFFC reimbursed VFC for their portion of using the copier.

VFC is aware that CFFC is incorporated, however, did not think sharing expenses would be considered a contribution. Also, VFC has returned the copier machine and this arrangement is no longer in effect.

If you wish copies of our records on this matter, we will be happy to provide them to you. Please contact us regarding any further action we should take to rectify this situation.

Sincerely,

K Kiehl

Kristina Kiehl
Treasurer

KK/ec

82040114771

VOTERS FOR CHOICE

1411 K Street Northwest
Washington, D.C. 20005

Mr. John McGarry, Chairman
Federal Election Commission
1325 K Street, Northwest
Washington, DC 20463

87 MAY 18 A9:04

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM

TO: COMMISSION STAFF

FROM: ORLANDO B. POTTER
WILLIAM C. OLDAKER

SUBJECT: USE OF ADVISORY OPINION PROCEDURES FOR PAST FACTUAL SITUATIONS

DATE: JULY 26, 1979

The following procedures for advisory opinions were approved at the July 26, 1979, Commission Meeting.

1. Advisory opinion requests will be accepted and considered as such only where the factual situation presented is to occur after the date the request is received by the Commission.

2. Advisory opinion requests will be considered when submitted in circumstances where an opinion is sought as part of the requestor's "best efforts" to determine the legality of a contribution that has been accepted on a conditional basis. See Commission regulations at 11 CFR 103.3(b).

3. An advisory opinion request will be considered when the factual situation presented in the request is a continuing one with possible compliance consequences. For example, an issue involving a payroll check-off system that has already been put into operation for collecting political contributions could be presented in an otherwise proper advisory opinion request submitted after the system was in use.

June 5, 1981

Kristina Kiehl
Treasurer
Voters for Choice
P.O. Box 4253
Takoma Park, Maryland 20012

Dear Ms. Kiehl:

Your letter of May 13, 1981, has been referred to this office for consideration as an advisory opinion request concerning application of the Federal Election Campaign Act of 1971, as amended.

Your letter explains that in several reports filed with the Commission in 1980, Voters for Choice ("VFC") reported receipts from a corporation, Catholics for a Free Choice ("CFFC"). You explain that the reported payments from CFFC were to reimburse VFC for shared expenses of a copier machine which VFC leased from the Savin Corporation. VFC received and paid all billings from Savin, and CFFC made reimbursements for its shared use of the copier.

As you know, the Act permits any person to request an advisory opinion concerning application of the Act or Commission regulations to a specific activity or transaction which they propose to undertake. 2 U.S.C. §437f. However, Commission regulations explaining the advisory opinion procedure state specifically that an advisory opinion request must set forth "a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." You stated that the copier has been returned and that the agreement for reimbursement from CFFC is no longer in effect. Accordingly, in the situation presented an advisory opinion may not be issued.

Kristina Kiehl
Page Two

We will, however, submit the matter to the Commission for consideration of whether any action should be taken. The fact that you have voluntarily brought these circumstances to our attention will be considered by this office as a mitigating factor in our further review. We will notify you if any further action is required, or whether the Commission considers the matter closed.

Sincerely yours,

Charles N. Steele
General Counsel

cc: John Gibson
Report Analysis Division NBLitchfield:vdmp:6/5/81

6-5-81

8 2 0 4 0 5 1 4 7 7 9

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 1421

8 2 0 1 0 3 1 4 7 7 9

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 1421

Date Filmed 4/14/82 Camera No. --- 2

Cameraman GPC

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE PUBLIC FILE OF CLOSED MUR 1421.

8 2 0 4 0 3 2 4 1 0 6

020131

RECEIVED
GCC# 7723
82 MAY 7 AM: 55

HARMON & WEISS

1725 I STREET, N.W.
SUITE 506
WASHINGTON, D.C. 20006

GAIL McGREEVY HARMON
ELLYN R. WEISS
WILLIAM S. JORDAN, III
LEE L. BISHOP
DIANE CURRAN
LYNNE BERNABEI
LUCIA S. ORTH

TELEPHONE
(202) 833-9070

OF COUNSEL
L. THOMAS GALLOWAY

MAY 11 P1:46

May 5, 1982

Mr. Dennis Moss
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1421

Dear Mr. Moss:

On behalf of Catholics For a Free Choice, I am submitting the following information to be placed on the public record with the other materials of MUR 1421.

Since MUR 1421 was internally generated and the file was closed without proceeding beyond the reason to believe stage, Catholics for a Free Choice, the respondent in this matter, never had an opportunity to present factual and/or legal arguments which might have led the Commission to dismiss the complaint. See 11 CFR 111.8. Now it wishes to take the opportunity to present these arguments and set the record straight.

The Commission found that Catholics for a Free Choice ("Catholics") paid some money to Voters for Choice ("Voters") during the spring of 1980. These payments might have been corporate contributions or expenditures which would have been in violation of the Federal Election Campaign Act, specifically 2 U.S.C. §441b(a).

In fact, the transfer from Catholic to Voters were not "contributions" or "expenditures", as those terms are defined in the FECA, but rather arm's length, business transactions at fair market value. For example, Catholics paid Voters \$200/month rent for one small private office pursuant to a sub-lease agreement, \$100/month for part-time secretarial assistance and 4¢/page for xeroxing. Clearly these figures are low and do not mask hidden corporate contributions.

8 2 0 4 0 3 2 4 1 0 7

HARMON & WEISS

Mr. Dennis Moss
Page Two
May 5, 1982

Thank you for your attention to this matter. If you have any questions, please let me know.

Sincerely,

Gail Harmon

Gail M. Harmon

GMH:sq

cc: Frances Kissling
Caroline Feinglass

Harmon & Weiss
1725 I Street, N.W.
Suite 506
Washington, D.C. 20006

RECEIVED

82 MAY 7 A11:55

Mr. Dennis Moss
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

82040324109

F

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

END OF ADDITIONAL MATERIAL FOR CLOSED MUR 1421.

8 2 0 4 0 3 2 4 1 1 0