

ADVISORY OPINION 1975-66

Transfer of Funds from an Individual's State Office Campaign Committee to his Federal Principal Campaign Committee

This advisory opinion is issued under 2 U.S.C. SS 437f in response to a request from the Bowman for Congress Committee.

This request was published on September 22, 1975 in the Federal Register (40 F.R. 43664). Interested persons were invited to submit written comments. No comments were received.

This request presents several questions regarding transfers of funds between political committees. Mr. Bowman was a candidate for State office in 1974. He has surplus funds of less than \$1,000 which he wishes to use in his bid for Federal elective office in 1976. His committee asks how this transfer may be accomplished consistent with the reporting requirements under the Federal Election Campaign Act of 1971, as amended (the Act). In Advisory Opinion 1975-10(B) published in the Federal Register on September 3, 1975 (40 F.R. 40674), the Commission allowed such a transfer of surplus funds from a State campaign to a Federal campaign and detailed the reporting requirements for same. The requestor is generally referred to that opinion for guidance.

Upon further inquiry, the Commission has ascertained that the transfer herein was made before the publication of Advisory Opinion 1975-10. The Bowman Committee now asks what steps it should take if the funds transferred were not in accordance with the opinion announced therein. As stated in AO 1975-10, transfers from a State campaign committee to a Federal campaign committee may not include funds previously contributed by national banks, corporations, labor unions, Federal Government contractors or foreign nationals. See 18 U.S.C. §§610, 611 and 613. Consequently, any funds contributed from such prohibited sources and transferred to the Federal campaign committee must be returned to the State campaign committee.

In determining whether any of the transferred funds must be returned, the Bowman Committee may presume that the contributions last received by the State campaign are the ones transferred to the Federal campaign. If a refund to the State campaign is required, the Bowman Committee should report such refund on its next reports of receipts and expenditures giving the date, amount and identification of the transferee committee. 2 U.S.C. §434(b). Any necessary refund of prohibited contributions is a disbursement required to be reported under 2 U.S.C. §434, see AO 1975-20, October 1, 1975 (40 FR 45292).

A further question expresses concern as to the consequences flowing from the possible use of improperly transferred funds prior to any knowledge by the committee that such use may be prohibited. An acceptable procedure for avoiding a violation has been discussed above. If the Bowman Committee acts in good faith in accordance with this advisory opinion, it will be presumed to be in compliance with the provisions of

the Act. 2 U.S.C. §437f. See generally 2 U.S.C. §437g and 438.

This advisory opinion is issued on an interim basis only pending promulgation by the Commission of rules and regulations or policy statements of general applicability.