



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 14, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-120

Philip Van Dam
Riecker, George, Hartley & Van Dam
414 Townsend Street
P.O. Drawer 632
Midland, Michigan 48640

Dear Mr. Van Dam:

This responds to your letter dated October 2, 1980, requesting an advisory opinion on behalf of the Civic Host Committee for the 1980 Republican National Convention, Inc., ("the Host Committee"), a registered host committee, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and the Commission's regulations to a proposed transfer of funds by the Host Committee.

Your letter describes the following factual situation. When the Host Committee was organized in July, 1979, a bank account separate from the committee's general bank account was established in accordance with 11 CFR 9008.7(d)(3). You state that depending upon the donor, allowable donations received either under 11 CFR 9008.7(d)(2) or 11 CFR 9008.7(d)(3) were placed in the appropriate account and expended in accordance with the Act and Commission regulations. While a wide variety of persons including individuals and local businesses may donate funds to the Host Committee under 11 CFR 9008.7(d)(2) for use in promoting the convention city and its commerce, only local retail businesses may donate funds under 11 CFR 9008.7(d)(3) for use by the host committee to defray qualified convention expenses. At the time that the Host Committee was established, it was not determined if the Committee would undertake any permissible 11 CFR 9008.7(d)(3) expenditures. As a result, all contributions donated to the Host Committee were initially placed in the Host Committee's general account.

You state that subsequently, the Host Committee agreed to help the Republican National Committee defray certain convention expenses which would normally be paid by the Republican National Committee's Convention Committee. Funds donated specifically to defray these

expenses were then received from local retail businesses, however, the total amount of donations received from "allowable donors" fell short of the total expenses that the Host Committee had agreed to defray. As a result, the Host Committee has a surplus of funds in its general account and a deficiency of funds in its separate account with which to defray convention expenses pursuant to its agreement with the Republican National Committee Convention Committee.

You ask specifically whether it would be permissible under the Act, for the Host Committee to transfer funds from its general account to its separate account in an amount sufficient to pay the remaining convention expenses which the Host Committee agreed to defray. You state that "accurate records as to the source of all donations received by the Host Committee were maintained by the Host Committee," and thus, you indicate that it is the Host Committee's position that all donations received from local retail businesses "were proportionate to the commercial return reasonably expected by the donor during the life of the Convention." Finally, you indicate that the retailers involved have agreed that the funds donated by them can be used to defray convention expenses if such a plan is approved by this Commission.

Based on the factual situation presented by your request, the Commission concludes that the proposed transfer of donations from the Host Committee's general account to its separate account maintained to receive only donations from local retail businesses within the SMSA of the convention city, which donations are limited by 11 CFR 9008.7(d)(3)(ii) to an "amount ... proportionate to the commercial return reasonably expected by the business, corporation or agency during the life of the convention," would be permissible under the Commission's regulations. This conclusion is based on the Host Committee's assertion that funds to be transferred to the Committee's separate account would, in fact, qualify under 11 CFR 9008.7(d)(3) to be used to defray convention expenses; that is, that the funds were donated by local retail businesses and that each donation does not exceed an amount proportionate to the commercial return reasonably expected during the life of the convention by the particular donor business. 11 CFR 9008.7(d)(3)(ii). Assuming that each such donation would have qualified at the time of receipt by the Host Committee to be used to defray convention expenses under 11 CFR 9008.7(d)(3) as discussed previously, the Commission notes that neither the Act nor its regulations appear to prohibit the proposed transfer of funds from the Host Committee's general account to its separate account containing funds to be used to defray convention expenses.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

John W. McGarry
Vice Chairman for the
Federal Election Commission