

ADVISORY OPINION 1975-22

Transfer from Principal Campaign Committee to State Political Party: Expenditures on Behalf of a Candidate.

This opinion is issued pursuant to 2 U.S.C. SS 437f in response to a request for an advisory opinion by Senator Strom Thurmond and published in the Federal Register of July 29, 1975 (40 FR 31879). Interested persons were given an opportunity to submit written comments pertaining to the request.

Senator Thurmond has requested a determination of the proper treatment of two factual situations under the Federal Election Campaign Act of 1971, as amended. The first situation is as follows:

1. The principal campaign committee of a candidate is the payee of a check. Upon receiving the check, the only action taken is an endorsement by the treasurer and immediate forwarding to a State committee of a political party. Does this constitute a receipt and expenditure by the principal campaign committee?

By endorsing the check, the treasurer of the principal campaign committee has exercised sufficient control over the check to amount to a receipt by that committee. In addition, all contributions received by the principal campaign committee must be deposited in the candidate's designated campaign depository. 2 U.S.C. §437b.

The principal campaign committee may transfer funds to a State political party by a check drawn on this account. Any such transfer, from one political committee to another, at least where the latter committee is a political committee under the Act, is an expenditure under 18 U.S.C. §591(f).

The second question the Senator raised is as follows:

2. If a person or political committee is specifically authorized to solicit and receive contributions, and specifically unauthorized to make expenditures, will the incidental expenditure of that person or committee be treated as expenditures by the candidate's principal campaign committee or as independent expenditures.

Under Title 18, a candidate may not authorize or request a person or political committee to undertake activity which necessarily includes the incurring of costs without authorizing the person or political committee to make the ordinary and necessary expenditures inherent in such activity. In this situation, the costs incurred in connection with a solicitation of funds for a candidate would be an expenditure within the meaning of 18 U.S.C. § 591(f)(1), subject, however, to any exemption under §591(f)(4). An expenditure is made on behalf of a candidate if it is made by any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate. 18 U.S.C. § 608(c)(2)(B)(ii). An expenditure made on behalf of a candidate is

chargeable against the candidate's limitation in 18 U.S.C. § 608(c)(1). If a person or political committee solicits contributions for a candidate without being authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, then the costs incurred would be an independent expenditure and subject to the limitation of 18 U.S.C. § 608(e).

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.

Date: 25 September 1975

(signed) _____
Thomas B. Curtis
Chairman for the
Federal Election Commission