



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 20, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-25

Mr. Jack Smilowitz
6376 Yucca Street
Los Angeles, California 90028

Dear Mr. Smilowitz:

This responds to your letter of March 11, 1980, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a letter which you propose to circulate to the general public.

According to your request you are a Congressional candidate for the 24th District of California. You wish to oppose a "California State Initiative" through a letter which you plan to write, photostat and distribute to the general public. You say that the letter will contain no words which state that anyone should "vote or contribute" to you or your principal campaign committee. However, you intend to put "Congressional Candidate, 24th District, American Independent Party" on the letter below your signature. You state that you do not want to be in violation of Public Law 96-187, Section 111, that is 2 U.S.C. 441d. Thus, the specific question raised is whether a statement regarding payment and authorization as required by 2 U.S.C. 441d is needed on your letter.

2 U.S.C. 441d requires that when any person makes an expenditure to finance communications expressly advocating the election or defeat of a clearly identified candidate or solicits any contribution through any type of general public policy advertising, such communication shall state who paid for and authorized the communication. In the absence of both express advocacy and any solicitation no statement of payment or authorization is required.

You state that the letter will not contain any words stating that anyone should "vote or contribute" to you or your principal campaign committee. From your description of the letter it appears that the communication does not expressly advocate the election or defeat of a clearly identified candidate nor solicits any contribution. Thus, the Commission concludes that the requirements of 2 U.S.C. 441d do not apply to your letter.

The Commission notes that the costs incurred in writing, photostating and distributing the letter are reportable expenditures. 2 U.S.C. 434(b)(4).

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

Sincerely yours,

(signed)

Robert O. Tiernan
Chairman for the
Federal Election Commission