



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 15, 1985

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1985-9

Honorable James H. Quillen
U.S. House of Representatives
Room 102
Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Quillen:

This responds to your letter dated February 15, 1985, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to your proposed use of excess campaign funds.

Your letter explains that you have determined that funds received by your congressional campaign are in excess of "any amount necessary to defray my campaign expenditures at this time." You state your intention to donate these funds to East Tennessee State University. They would, you add, be used "in the creation of a professorial chair, or endowed scholarship."

The Act provides that campaign contributions received by a candidate which are in excess of amounts necessary to defray campaign expenditures may be donated to any organization described in 26 U.S.C. 170(c). 2 U.S.C. 439a, also see 11 CFR 113.2. Prior Commission advisory opinions have also specifically permitted the donation of excess campaign funds to universities for both a student fellowship program and a professorship in honor of a United States Senator. See Advisory Opinions 1978-87 and 1978-100.

Your proposed donation is indistinguishable in all material aspects from the donations described in these opinions, and you may rely upon them. See 2 U.S.C. 437f(c). Accordingly, your proposed donation of excess campaign funds to East Tennessee State University for either a professorial chair or an endowed scholarship would be permissible under the Act.* 2 U.S.C. 439a.

This donation by your reporting principal campaign committee would have to be disclosed in the appropriate report as a disbursement, even if it is not made to influence your election to Federal office. 2 U.S.C. 434(b)(6)(A), 11 CFR 104.3(b). If the total of all such donations (or a single donation) exceeds \$200 within the calendar year, the report of your committee must itemize the name of the donee as well as the date, amount, and purpose of the donation. 11 CFR 104.3(b)(4)(vi).

The Commission expresses no opinion as to any tax ramifications or the possible application of House Rules with respect to this proposal. Those issues, if any, are not within its jurisdiction.

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 Warren McGarry
Chairman for the Federal Election Commission

Enclosures (AO 1978-100 and 1978-87)

*/ Publication 78 of the Internal Revenue Service contains a listing of all organizations described in 26 U.S.C. 170(c) and is the official source for ascertaining the status of any charitable or educational organization.