



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

May 25, 1977

AO 1977-8

W. Gary Blackburn, Esquire  
Ortale, Kelley, Herbert & Crawford  
Twenty-Third Floor  
Life and Casualty Tower  
Nashville, Tennessee 37219

Dear Mr. Blackburn:

This refers to your letter of February 16, 1977, as supplemented by a letter dated April 6, 1977, which requests an advisory opinion on behalf of the Sasser for Senate Committee concerning application of the Federal Election Campaign Act of 1971, an amended ("the Act"), to the receipt of proceeds from a joint fundraiser held with the principal campaign committee of Mr. Mike Rowland, a candidate for the United States House of Representatives.

As stated in your letters the two committees agreed to participate in a joint fundraising event held on January 15, 1977, for the purpose of retiring outstanding campaign debts of both committees. Both Mr. Rowland and Senator Sasser appeared at the event, greeted guests, and made brief statements. The agreement (enclosed with your letter of April 6, 1977) between the two committees concerning the event provides that net proceeds would be divided 80 percent to the Rowland for Congress Committee and 20 percent to the Sasser for Senate Committee. The agreement also relates that:

1. The event shall be billed as a "Fund Raising Reception to Help Retire the Campaign Deficits of: Senator Jim Sasser and Mike Rowland" and will be held at the Andrew Johnson Hotel, Gay Street, Knoxville, Tennessee, from 6:00 to 8:00 p.m. on Saturday, January 15, 1977.
2. Admission to the event shall be One Hundred Dollars (\$100) per individual or couple.
3. Contributors shall be asked to make their checks payable to "Sasser for Senate/Rowland for Congress" and the checks together with any cash contributions, shall be deposited in an account by that name, Anna F. Hinds, signatory.

4. A list of contributors indicating eighty percent (80%) to Rowland and twenty percent (20%) to Sasser shall be maintained by A. F. Hinds and furnished to Gary Blackburn, Treasurer of the Sasser for Senate Committee together with twenty percent (20%) of the net proceeds.
5. Expenses of the fund raising event will be paid prior to distribution of the proceeds. Each committee shall report its pro rata share of the proceeds together with an itemization of individual contributions in excess of One Hundred Dollars (\$100) and will maintain in its files a list of contributors.

Your April 6 letter indicates that a number of individuals sold tickets priced at \$100 each; most of the persons who purchased tickets bought one or two. Records were kept of the names of each individual ticket purchaser; each purchaser, you say, understood that the fundraiser was on behalf of Mr. Rowland and Senator Sasser although specific information as to the division of the proceeds between their respective committees was not given.

The Rowland committee has now forwarded a check to the Sasser committee in the amount of \$1,635.39 representing the Sasser committee's pro rata share of the net proceeds. You request an advisory opinion as to whether the Sasser committee may accept the agreed share of the fundraising proceeds, and if so, whether the Sasser committee should report its receipt of these proceeds as "a receipt or transfer from the congressional candidate's committee, or should receipts be itemized by name of ticket purchasers and allocated between the two committees for reporting purposes?"

The Commission concludes that the Sasser for Senate Committee may accept its agreed pro rata share of the net proceeds from the event which share should be reported as a transfer from the Rowland Committees. This conclusion is based on the agreement entered into between the two committees before the event was held and the stated fact that both Mr. Rowland and Senator Sasser appeared and participated in the fundraising event.<sup>1</sup> The conclusion is also subject to the requirements discussed hereafter.

#### Compliance with the contribution limits

Pro rata contributions to the Sasser Committee may be accepted and retained by the Sasser Committee only to the extent that contributors to whom those pro rata contributions are attributed have not previously "used-up" their respective contribution limits with respect to 1976 election(s) involving Senator Sasser. See 2 U.S.C. 441a(a). In other words, the Sasser Committee's pro rata share of each contribution (ticket purchase) must be aggregated with all other contributions of the contributor/purchaser to the Sasser campaign for a 1976 election(s) regardless of whether the other contributions were made in 1975, 1976, or 1977. The 20 percent

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<sup>1</sup> The agreement is viewed as satisfying the authorization requirements in 101.2 and 102.12 of the regulations. The Commission notes its concern that contributors were not given notice as to the specific division which would be made of their contributions, but in this particular case will not disapprove the transfer if proper disclosure is made and the contribution limits are not exceeded. Compare Advisory Opinion 1977-14 (copy enclosed).

pro rata share of each contribution must be based on the gross amount of the "purchase price" for a ticket to the event.<sup>2</sup>

#### Reporting contributions and expenditures related to fundraiser

The Sasser Committee should report its receipt of the net proceeds (\$1,635.39) as a transfer from the Rowland Committee assuming the Rowland Committee reports all contributions received and itemizes contributors where the amount of a combined contribution allocable to both committees exceeds the \$100 reporting threshold for calendar year 1977.<sup>3</sup> The Sasser Committee needs to submit a memorandum Schedule A in support of its reported transfer from the Rowland Committee. The Schedule should be identified as related to the subject event and disclose detailed contributor information for each instance where the 20 percent pro rata share attributed to the Sasser Committee exceeds \$100 from a particular individual when aggregated with other contributions made by that same individual in calendar year 1977. The memo Schedule A must identify each political committee contributor to which a pro rata share is attributed, regardless of amount. See 2 U.S.C. 434(b)(4). The pro rata shares in either case should be based on the gross amount of the contribution/ purchase since the limits apply to gross amounts rather than net. The Sasser committee needs to designate (by amendment to its Statement of Organization) the bank where the account for this event was established as an additional depository.<sup>4</sup>

Expenditures in connection with the event would not need to be reported by the Sasser Committee since, as you indicate, the proceeds transferred to the Sasser Committee represent 20 percent of the funds remaining after expenses for the event have been paid. The expenses would, however, need to be reported by the Rowland Committee.

#### Allocation of costs of event

As stated above, expenditures to defray expenses of the event were evidently shared in the same proportion as the agreed division of the net proceeds. Any advance payments made by the Rowland Committee to defray expenses of the event would be loans or advances and thus contributions to the Sasser Committee (and counted against the Act's contribution limits), unless (1) the Sasser Committee itself funded 20 percent of any advance payments needed or (2) the 20 percent Sasser share was \$500 or less and distribution of net proceeds to the Sasser Committee was made within 60 days of the date of the advance.<sup>5</sup>

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<sup>2</sup> 100.4(a)(2) of the Commission's regulations.

<sup>3</sup> See 2 U.S.C. 434(b)(2), (4), (6) and 104.2(b)(2), (4), and (6) of the Commission's regulations

<sup>4</sup> 103.3 of the regulations.

<sup>5</sup> See 104.2(b)(11) and 104.8(b) of the regulations.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)  
Thomas E. Harris  
Chairman for the  
Federal Election Commission

Enclosure