



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 11, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1978-91

Mr. Art Rude
North Dakota Democratic-NPL Party
1902 E. Divide Avenue
Bismarck, North Dakota 58501

Dear Mr. Rude:

This is in response to your letter of November 8, 1978, as supplemented by letter of January 28, 1979, requesting an advisory opinion on behalf of the North Dakota Democratic-NPL Party ("the State Party") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to the reporting of funds received by the State Party from local legislative district committees ("the district committees").

You have described three proposed procedures for handling funds received by the State Party and request an advisory opinion as to whether each is proper under the Act and Commission regulations. The three proposals relate to: (1) contributions received directly by the State Party; (2) funds received in the form of transfers of proceeds from fundraising events held by local legislative district committees; and (3) transfers exceeding \$1,000 in a calendar year to the State Party from local legislative district committees. Each proposal will be treated separately after summarizing the factual situation presented in your request.

Your request indicates that the State Party is organized by legislative districts and that each district is represented on a Policy Committee which determines the budget and financing of the State Party. Each district committee shares in the financial responsibility by raising a "quota" of funds on behalf of the State Party from individual contributions and fundraising events within the district. You state that when individual contributions are received by the State Party they are receipted, credited to that individual's home district quota, and itemized on the State Party's report to the Commission.¹ In addition to these individual itemized contributions, other funds are

¹ Your supplemental response indicates that the State Party is currently organized pursuant to 11 CFR 102.6(a)(2)(ii); that is, it has a single account from which it makes contributions to and expenditures on behalf of both Federal and non-Federal candidates and which reports to the Commission all State Party financial activity. You

collected within each district which result from various fundraising events, e.g. political dinners. With respect to the proceeds of these events, the district committee officers make a determination regarding local campaign needs and, at their discretion, forward surplus proceeds to the State Party. Each sum forwarded is credited to the particular district committee's quota. You indicate that in all cases the ticket prices for these events were under \$100 and that, therefore, a precedent had been established by the State Party of reporting these funds as "unitemized transfers from committee",² regardless of the total amount transferred, which in several instances exceeded \$1000 annually and occasionally exceeded \$1000 in a quarterly reporting period. You state that recently the Commission notified several of the district committees whose reported transfers exceeded \$1000 during 1978 that they may be "political committees subject to the registration, reporting and contribution limitation requirements of the Act". You seek Commission approval of certain methods of reporting funds received from the districts which will obviate the need, in most cases, for the district committees to register and report as political committees under the Act.

Contributions received directly by the State Party

You propose to continue current practice with respect to individual itemizable contributions; that is, they will be submitted directly to the State Party, receipted properly, and itemized on the State Party's reports to the Commission. The Commission concludes that this procedure is acceptable as long as any person at the district level who receives such contributions on behalf of the State Party meets the requirements of 2 U.S.C. 432(b) and 11 CFR 102.8, which provide that every person who receives a contribution in excess of \$50 for a political committee shall provide a detailed account thereof to the committee's treasurer within 5 days of receipt of such contribution, including the amount, identification of the contributor, the date on which the contribution was received and, where the contribution exceeds \$100, the occupation and principal place of business of the contributor. Also, 11 CFR 103.3 requires that all contributions received by the State Party be deposited in a designated campaign depository of the State Party within 10 days of their receipt.

Transfers of proceeds from district committee fundraisers

You state that the proceeds of district fundraising events, which consist of small, unitemizable contributions, will be forwarded directly to the State Party and reported to the Commission as "transfers in from affiliated committees". As noted above, the State Party has, in the past, usually reported these transfers as coming from an individual who is identified as the treasurer of a particular district committee. Part 104.2(b)(4) of Commission regulations requires each report filed by a political committee to disclose the identification of each political committee or other political organization from which the reporting committee received any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers. Accordingly, the State Party should continue to itemize each transfer from a

indicate, however, that you have recommended to the State Party's Executive Committee that it establish a separate Federal account pursuant to 11 CFR 102.6(a)(2)(i).

² An examination of reports filed with the Commission by the State Party indicates that these funds have been reported on line 18(a) of FEC Form 3 as "transfers in from affiliated committees" and itemized on Schedule A as having been received from an individual who is identified as the treasurer of the particular district committee.

district committee on Schedule A, but should clearly identify the district committee (by number, as has been done in the past, or otherwise) from which the funds have been received, rather than the individual who may act on behalf of a particular committee.

Transfers exceeding \$1000 from district committees

With respect to your third proposal, that no district committee will transfer in excess of \$1,000 in a calendar year to the State Party unless it registers and reports as a "political committee", the Commission notes that as long as the State Party maintains a single account for the purpose of making contributions to or expenditures on behalf of both Federal and non-Federal candidates, any district committee which transfers in excess of \$1000 to the State Party in any calendar year would qualify as a "political committee" subject to registration and reporting under the Act. If, however, the State Party were to establish a separate Federal campaign committee with a segregated Federal account (See 11 CFR 102.6(a)(2)(i)), as you have recommended, a district committee could transfer up to \$1000 in a calendar year to the State Party's separate Federal account and any amount transferred to the State Party in excess of \$1000 could be placed in an account, the funds from which are not used to influence Federal elections, i.e. one which is used for state and/or local elections. Under this procedure, district committees which did not wish to be considered "political committees" would be able to maintain that status. In this regard, however, the Commission emphasizes the responsibility of the State Party, as well as all Federal committees which receive transfers from unregistered political organizations, to request assurance from the transferring district committee that the contributions originated from sources which are permissible under the Act.³ (See 2 U.S.C. 441a, 441b, 441c, 441e and 441f).

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)

Joan D. Aikens

Chairman for the

Federal Election Commission

³ The Commission notes that North Dakota law does not prohibit union contributions to candidates for State office and committees supporting such candidates. Union, as well as corporate, contributions are prohibited under 2 U.S.C. 441b unless made from a separate segregated fund.