



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 2, 1979

ADVISORY OPINION 1979-6

Richard W. Smith
Shasteen for Senate Committee
212 Anderson Building
Lincoln, Nebraska 68508

Dear Mr. Smith:

This refers to your letter of February 6, 1979, with enclosure, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a special joint fundraising dinner to be sponsored by three Congressional campaign committees to retire their outstanding campaign debts from 1978 primary and general elections. The Committees are the Shasteen for Senate Committee, the Bereuter for Congress Committee and the Elect Daub to Congress Committee ("the Committees").

Your letter and enclosed copy of the Agreement for Republican Unity Dinner ("the Agreement") explain that the Committees plan to appoint a single agent ("the Agent") who will, on behalf of the three Committees, receive all funds and make all disbursements in connection with the dinner. Each of the Committees will formally designate the bank in which dinner funds are deposited as an additional campaign depository. The Agent will pay all expenses of the dinner, allocating the costs among the Committees in equal proportions, and will furnish to each Committee an itemized statement of expenditures. After payment of such expenses, the Agent will divide the net proceeds equally among the Committees and furnish to each Committee appropriate itemization of the contributions, including the contributor name, residence, business address and principal occupation of the purchaser of each ticket. You also indicate that in the event the described allocation of proceeds results in any Committee receiving a contribution in excess of the limits set forth in the Act, such excess will be returned by the Committee to the Agent to be reallocated between the other Committees or, if necessary, refunded to the contributor. You further state that if such a reallocation of proceeds is necessary, a corresponding reduction in the proportion of the expenses attributed to the particular Committee involved will also be made. Each Committee will then report to the Commission its prorata share of receipts

and expenditures for the dinner, indicating that they were the result of a joint fundraising event.*

The Agreement further indicates that each ticket will state that each participating Committee's report is available from the Commission, that the sale price of each ticket (\$100) when paid constitutes a contribution of 1/3 of the price to each of the Committees, and that the

Purchase price will be allocated equally among the three Committees unless such allocation would result in a contribution from the purchaser exceeding the purchaser's total contribution limitations. In that event, the purchase price will be allocated to the other Committees.

You request an advisory opinion as to whether the proposed plan and Agreement with regard to the joint dinner are in compliance with the Act and Commission regulations.

The Commission concludes that your proposal is acceptable under the Act and regulations as well as under past Commission opinions concerning joint fundraising. (See Advisory Opinions 1977-61, 1977-23 and 1977-14, copies enclosed.) The Commission emphasizes the importance of adhering to the procedures described in your request and of complying with the conditions stated hereafter.

Designation of depository and accounting of contributions

Since the Agent will be authorized in writing by all three Committees to act on their behalf and each Committee will formally designate the account into which dinner funds will be placed as an additional campaign depository, the recordkeeping and reporting obligations of the Act are triggered when the Agent receives any contribution on behalf of the reporting Committees. The Agent is required under 103.3 of the regulations to deposit all contributions in the designated depository within 10 days from the date of their receipt. Each Committee must also recognize receipt of each contribution for recordkeeping and reporting purposes on the date it comes into the possession of the Agent, which means that the Agent must furnish to each Committee treasurer the identification of each contributor and the contributor's address, occupation and principal place of business if his or her allocated 1/3 contribution to the Committee exceeds \$100 for the calendar year. See 2 U.S.C. 432(c) and 434(b); see also Parts 102, 103 and 104 of Commission regulations.

Notice of distribution formula for contributions

The notation which will appear on each ticket gives sufficiently complete information as to the prorata distribution which will be made of each contribution received so that contributors have notice as to the extent to which their contribution limits will be "used up" with respect to each participating committee. The notice also informs contributors as to the intended disposition

* The Commission notes that each Committee has to file a Schedule D disclosing its share of gross proceeds from the joint fundraising dinner. See 2 U.S.C. 434(b)(6) and 11 CFR 104.2(b)(6). Schedule D is required in addition to Schedule A which should be used to itemize each Committee's prorata gross contributions in amounts requiring itemization. See 2 U.S.C. 434(b)(2), (4) and 11 CFR 104.2(b)(2), (4).

of any portion of a Committee's prorata share of a contribution which might place that contributor over his or her applicable limit for contributions with respect to a 1978 election. See 2 U.S.C. 441a, 11 CFR 110.1.

Allocation of expenses and accounting of expenditures

The suggested plan insures that expenditures made to defray costs of the dinner will be shared among the Committees in the same proportion as the net proceeds. The plan provides for a reduction in the share of expenses attributed to a particular Committee in the event that the Committee is required by applicable limits to return any contribution or portion of any contribution to the Agent for reallocation to the other Committees. As discussed previously with respect to contributions, the recordkeeping and reporting requirements of the Act are triggered when the Agent makes any expenditure on behalf of the reporting Committees, which means that the Agent must furnish to each Committee treasurer the identification of each person to whom expenditures are made on behalf of that Committee which exceed \$100 in a calendar year, along with the amount, date and purpose of such expenditure. See 2 U.S.C. 434(b)(9) and 11 CFR 104.2(b)(9).

Statement relating to campaign advertising

The proposal to include on each ticket a statement concerning the availability of each Committee's reports is appropriate under 2 U.S.C. 435(b). That provision requires the inclusion of such a notice on the face or front page of all printed committee literature and advertisements which solicit contributions. The notice would be required on the tickets themselves if they serve as printed solicitation material. See also 11 CFR 102.13 and 110.11(c).

This response constitutes an advisory opinion concerning 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

Enclosures