



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 2, 1976

Re: AOR 1976-52

Honorable Carroll Hubbard
Hubbard Re-Election Campaign
Post Office Box 462
Mayfield, Kentucky 42066

Dear Mr. Hubbard:

This responds to your letter of July 8, 1976, requesting an advisory opinion concerning the transfer of excess campaign funds remaining after the November 1976 general election, from your principal campaign committee to your brother's congressional campaign committee, for the purpose of retiring campaign debts incurred during his unsuccessful bid for Congress in 1974. If such a transfer is permissible you request to know if it is subject to the contribution limitations prescribed by the Federal Election Campaign Act of 1971, as amended ("the Act").

Under 2 U.S.C. §439a and §113.2(c) of the Commission's proposed regulations (copy enclosed) excess campaign funds may be transferred to another candidate. Any such transfer, however, constitutes a contribution subject to the limitations of 2 U.S.C. §441a and Part 110 of the proposed regulations.

Section 110.1(g)(1), of the Commission's proposed regulations states:

"Contributions made to retire debts resulting from elections held prior to January 1, 1975, are not subject to the limitations of this Part 110, as long as contributions and solicitations to retire those debts are clearly designated and used for that purpose."

In addition to this proposed regulation the Commission has issued a policy statement and several advisory opinions on pre-1975 campaign debts (40 FR 32952 and particularly Advisory Opinions 1975-6, 40 FR 31316, as well as 1975-82, 40 FR 57757.) In these opinions and statement the Commission ruled that "election" for purposes of imposing the contribution limitations, means any election occurring after January 1, 1975. Contributions made for the sole purpose of retiring campaign debts incurred incident to an election held before January 1, 1975, are not subject to the limits in 2 U.S.C. §441a.

You would therefore be permitted to transfer any excess campaign funds left over from your 1976 election bid, to retire campaign debts incurred during your brother's 1974 campaign, without being subject to the contribution limitations under the Act. Please note that each such transfer should be expressly "earmarked" (as by notation on a check) for retiring the pre-1975 debts.

This response relates to your opinion request but may be regarded as informational only and not as an advisory opinion since it is based in part on proposed regulations of the Commission which must be submitted to Congress. The proposed regulations may be prescribed in final form by the Commission only if not disapproved by either the House or the Senate within thirty legislative days from the date received by them 2 U.S.C. §438(c). The proposed regulations were submitted to Congress on August 3, 1976. It is the Commission's view that no enforcement or compliance action should be initiated in this matter if your actions conform to the conclusions and views stated in this letter.

Sincerely yours,

(signed)
Vernon W. Thomson
Chairman for the
Federal Election Commission

Enclosure