



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

December 15, 1978

AO 1978-95

Mr. Joseph Salema, Secretary  
Friends for Florio '78 Committee  
P.O. Box 449  
Glassboro, New Jersey 08028

Dear Mr. Salema:

This is in response to your letter of November 17, 1978, requesting an advisory opinion on behalf of the Friends for Florio '78 Committee ("the Committee") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use of excess campaign funds for retiring debts from a prior gubernatorial campaign.

Your letter states that unused funds remain from Congressman Florio's 1978 Congressional campaign and that you wish to use these funds to retire a debt incurred in connection with Mr. Florio's campaign in the New Jersey Gubernatorial primary election of 1977. You ask whether such use of these funds is permitted under the Act and Commission regulations.

The Act provides that candidates for Federal office may use "amounts received as contributions that are in excess of any amount necessary to defray [their] expenditures" in various ways-- supporting their activities as Federal officeholders, contributing to charity, or "any other lawful purpose." 2 U.S.C. 439a. The Commission's regulations define the term "excess campaign funds," and allow the candidate to determine the amount of the excess. 11 CFR 113.1(e). The regulations also describe various purposes for which excess campaign funds may be lawfully expended, but are not exhaustive as to those purposes which are lawful. 11 CFR 113.2.

In the absence of any applicable State or Federal law outside the jurisdiction of the Commission which would make this use unlawful, it is the opinion of the Commission that expending excess campaign funds, received with respect to Mr. Florio's 1978 congressional election campaign, to retire debts from his 1977 gubernatorial campaign constitutes a use of funds for a "lawful purpose" under 2 U.S.C. 439a and 11 CFR 113.2(c). See Advisory Opinions 1978-37 and 1977-48, copies enclosed. The Committee should report the transfer of funds for

this purpose on the report covering the period when the transfer is made. 2 U.S.C. 434 and 11 CFR 104.

The Commission expresses no opinion as to application of the rules of the House of Representatives in this situation, since those rules are not within its jurisdiction. Nor may the Commission express any views concerning tax ramifications since those issues are within the jurisdiction of the Internal Revenue Service.

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. SS 437f.

Sincerely yours,

(signed)

Joan D. Aikens  
Chairman for the  
Federal Election Commission

Enclosures