



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 5, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-58

Evan S. Dobbelle
Carter/Mondale Presidential Committee, Inc.
1413 K Street, N.W.
Washington, D.C. 20005

Dear Mr. Dobbelle:

This responds to your letter of October 15, 1979, which requests an advisory opinion regarding application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to political activity by partners in law firms on behalf of the Carter/Mondale Presidential Committee ("the Committee").

You indicate that your request is based on several inquiries that the Committee has received from partners in law firms. These partners have asked whether they may participate in a limited fashion in the activities of the Committee without causing their law firms to be deemed to have made contributions in kind. You explain that your request is intended to present a specific factual situation and proposal based on one of the inquiries received by the Committee. The Commission concludes that it may properly address only the specific situation presented in the one inquiry as you have described it. Accordingly, this advisory opinion is not intended to offer general advice as to the providing and proper treatment of compensated campaign services in all other cases.

Your letter explains that the senior partner of a law firm wishes to engage in fundraising and political activities for the Committee as a volunteer. The time devoted to these activities would occur during normal business hours and also during evenings and weekends. The firm does not object to the senior partner's Committee activity but wishes to avoid the making of a contribution as defined in 2 U.S.C. 431(8).

You state that the firm's policy on compensation paid to this senior partner is:

not tied to the number of hours he or she works, but rather is based on his proprietary or ownership interest in the firm, which reflects a variety of

historical factors, including seniority of service in the firm, stature in the Bar, ability to attract clients, effectiveness in problem solving, value as a counselor to other attorneys in the firm, and the like.

You make reference to Commission regulations at 11 CFR 100.4(a)(5)(ii) and conclude that the senior partner should not be regarded as receiving compensation by the firm for campaign activity because, as provided in that regulation, compensation is not considered paid to an employee "whose time is considered the employee's own to use as he or she sees fit." You reason that, although a partner is not normally considered as an employee, the senior partner's described relationship with the law firm allows the partner to use his/her time as desired.

You have represented that the senior partner has complete discretion in the use of his/her time and that, accordingly, no reduction of income from the firm would be made even if, for whatever reason, the senior partner spent less time on firm matters than may have been spent during a previous period when no services were provided to the Committee. In such a situation, the Commission concludes that the income from the firm would not constitute an in kind contribution to the Committee for purposes of the Act. 2 U.S.C. 431(8)(A). This situation is distinguishable from Advisory Opinion 1978-6 since in that opinion the compensation from the law firm was dependent, at least in part, on the number of hours the partner recorded as client work for the firm.

The Commission will, of course, consider the campaign activity of other law firm personnel if a complete and specific advisory opinion request is submitted with respect to the facts in each case.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Robert O. Tiernan
Chairman for the
Federal Election Commission

Enclosure (AO 1987-6)