



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

February 8, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-82

The Honorable Ronald M. Mottl  
U.S. House of Representatives  
1232 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Mottl:

This responds to your letter of December 18, 1979, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the transfer of excess campaign funds.

Your letter states that your son is probably going to run for State office in Ohio in 1980. You wish to know if there is any prohibition or limit on the amount of money which might be transferred to his campaign fund from your principal campaign committee.<sup>1</sup>

The Federal Election Campaign Act Amendments of 1979<sup>2</sup> have modified 2 U.S.C. 439a to provide:

"Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of the Internal Revenue Code of 1954, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that, with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress on the date of the enactment of the

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<sup>1</sup> Reports filed with the Commission by the Reelect Ron Mottl to Congress Committee ("the Committee") indicate that the Committee has a cash-on-hand balance of \$33,888.64 as of September 30, 1979.

<sup>2</sup> Public Law 96-187, 93 Stat. 1339, effective January 8, 1980.

Federal Election Campaign Act Amendments of 1979, no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office."

Since you were a Member of Congress on January 8, 1980, the question of whether transferring excess funds to your son's campaign is a conversion of the funds to "any personal use" does not arise. Accordingly, the Commission concludes that so long as the transfer of funds from the Committee to your son's campaign fund is lawful under Ohio law, nothing in the Act or Commission regulations would prohibit such a transfer of funds. Further, because the limitations of 2 U.S.C. 441a do not apply to contributions made to or on behalf of candidates for State or local office, the Act would not limit the amount of the transfer by the Committee. However, the Commission notes that if Ohio law regulating State and local elections is applicable in this situation, the preemption provisions in 2 U.S.C. 453 and Commission regulations at 11 CFR 108.7 would not preclude the application of Ohio law. See Advisory Opinions 1978-37, and 1978-94, copies enclosed.

The Commission expresses no opinion as to the possible tax ramifications or applicability of House rules to your proposal since those issues are outside its jurisdiction.

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

Enclosures