



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 9, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-15

Mr. David Andersen
Sprik and Andersen
Suite 700
Commerce Building
5 Lyon Street, N.W.
Grand Rapids, Michigan 49503

Dear Mr. Andersen:

This responds to your letter of March 2, 1982, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations to radio and television advertisements promoting legal services for your general law partnership, Sprik and Andersen ("the firm").

Your request outlines the categories of the firm's personnel as including two partners, three associate attorneys, one law clerk and another law clerk to begin work in May, two part-time paralegals and five secretaries. Dale Sprik, the senior partner of the firm, was a Congressional candidate in 1978 and 1980. He may be such a candidate in 1982 from the Fifth Congressional District of Michigan. Your request explains further that for about three years the firm has advertised its various legal services in: the yellow pages of the Grand Rapids telephone directory; the classified section of the Grand Rapids Press and also for the past fifteen months in the TV Guide section of the Sunday edition of the same newspaper. These printed advertisements state that the firm handles Chapter 13 debt relief as well as personal injury claims and that no fee is charged unless recovery is obtained in specific areas of personal injury claims. In addition, you state that during February 1982, the firm advertised on WKWM, a local radio station. For the most part the radio advertisement parallels the printed advertisements of the firm. The firm plans to advertise its legal services on local television and radio stations on a more regular basis. These ads will make no mention of Mr. Sprik's former or possible future candidate status. Furthermore, even if Mr. Sprik becomes a Congressional candidate, the frequency of the

planned ads will not increase as the primary or general elections approach, nor will the contents note the candidate status of the senior partner of the firm.

In view of this promotional plan and the possibility of Mr. Sprik's candidacy, you ask whether expenses incurred for advertisements publicizing legal services provided by the law firm would constitute a contribution to Mr. Sprik if he becomes a candidate.

A contribution is defined by the Act as a gift, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. 431(8)(A)(i). See also 11 CFR 100.7. As the request explains, the purpose of the radio, television and newspaper advertisements of the firm would be to expand the current market by publicizing the firm's legal services. Moreover, it appears to the Commission that these advertisements will be aired, televised and written irrespective of any possible candidacy for Congress in 1982 by Mr. Sprik. Therefore, the Commission concludes that since the ads will not identify Mr. Sprik as a candidate for Congress, or any other public office and since the frequency of such ads will not be accelerated immediately preceding any 1982 primary or general election, no purpose to influence an election would arise in those circumstances. Therefore, no contribution from the law firm would be made to Mr. Sprik's candidacy as a result of the firm's expenses for the desired advertising.

The Commission has previously recognized that an individual may pursue gainful employment at the same time he or she is a candidate for Federal office. See Advisory Opinion 1977-45 (copy enclosed). It follows then that expenses associated with such employment may be incurred where, as here, the expenses are for purposes of promoting the individual's gainful employment, rather than a candidacy for Federal office.

The Commission expresses no opinion as to the application of the Communications Act of 1934, as amended, (see 47 U.S.C. 315), or FCC regulations since these are outside the purview of the Commission's 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)

Frank P. Reiche
Chairman for the Federal Election Commission

Enclosure (AO 1977-45)