

The original documents are located in Box 16, folder “Federal Election Commission - RNC and PFC Payment of Presidential Travel Expenses (3)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE

WASHINGTON

September 2, 1975

Not needed

MEMORANDUM FOR:

JIM CONNOR

FROM:

PHIL BUCHEN

SUBJECT:

Request to the FEC for an
Advisory Opinion

As you requested, ~~attached~~ is a draft request to the Federal Election Commission for an advisory opinion concerning the apportionment of Presidential travel expenditures on mixed-official-political trips. Please have this letter staffed with comments back to me by COB today in order to allow us to submit this request to the FEC as early as possible tomorrow.

As the request will be on the public record once it is received by the FEC, I believe the best way to handle the press will be for Ron Nessen to release the letter at tomorrow morning's briefing.

Thank you.

Attachment

THE WHITE HOUSE
WASHINGTON

*Political
Activities*

September 2, 1975

MEMORANDUM FOR: BARRY ROTH

FROM: PHIL BUCHEN

P.W.B.

Please check tomorrow's Federal Register for a Treasury Department item concerning the tax aspects of travel by various persons on the Presidential plane and get a copy for me.

**Sept 3.*



THE WHITE HOUSE

WASHINGTON

September 3, 1975

chron

Dear Mr. Curtis:

This is in response to Notice 1975-38 (F.R. 40202) in which the Federal Election Commission has sought comments concerning a request from the campaign manager for Mr. Louis Wyman for an opinion of the FEC General Counsel on several questions relating to possible travel by "President Ford and former Governor Reagan" to New Hampshire for the purpose of endorsing Mr. Wyman in the September 16, 1975, special Senatorial election. The General Counsel has proposed for Commission review an opinion responding to this request which states, in part, as follows:

"Presidential expenditures in connection with such a visit provide unique problems of attribution. It would be illogical, and unnecessarily restrictive, to require the attribution of the actual cost of a presidential campaign foray. Hence, only the equivalent commercial rates will be chargeable against an incumbent President's individual contribution limitations and against the candidate's overall expenditure limitation. Expenses for accompanying staff personnel will be charged against the foregoing limitations only if such staff personnel serve primarily as advance persons or other campaign staff members and do not provide support services to the Office of the President. Additionally, special costs attendant upon Ford's office as President, such as the Secret Service, police and medical attention, are not to be included within this amount. These costs are relatively fixed and are related to Ford's position as President and not to his political function as head of his party."

In the form of comment on this one provision, we wish to bring to your attention the manner in which we intend to apportion the various costs incurred to operate government-owned aircraft on which the President and accompanying government personnel travel to and from localities where the President appears for other than official purposes. As the General Counsel's proposed opinion indicates, expenditures for such travel by the President present problems that are unique to his Federal office, in that the President must continue to perform in his official capacity at the same time he undertakes political activities.

For this reason, whenever the President travels, regardless of the purpose of the particular trip, he is accompanied by a number of persons who are present to support him in his official role. For example, certain members of the White House staff, military aides, medical aides, Secret Service and communications personnel are present not for any political purpose, but solely to provide the President with support which in many cases they are required by law to perform. The Secret Service, in particular, is required by P.L. 90-331 to provide protection to "major Presidential and Vice Presidential" candidates at the direction of the Secretary of the Treasury and on the basis of consultation with an advisory committee of bipartisan congressional membership.

(1) Costs of Operating Government-Owned Aircraft
on Political Trips

When the President travels on a trip which entails only political stops, the cost of operating the Government-owned aircraft that are used to transport the President can be readily determined from the enclosed hourly rate schedule, used by the Department of Defense to recover its costs from other government agencies that use military aircraft. In our view, the costs of transporting any persons aboard the aircraft who are traveling for political purposes should be borne by the appropriate political committee. On the other hand, the costs of transporting those persons who are traveling for the purpose of supporting the Office of the President should not be attributed to a political committee.

For the purpose of the President's future travels, we will identify those individuals who could be considered to be present for a

political purpose. We plan to treat as political travelers the President and First Family, political committee officials, certain White House and other officials, who may perform some political activities, and any other persons whose activities could be viewed as political. Although White House officials are present for official support activities, and generally spend a substantial majority, if not all, of their time on official business, we intend to consider the following categories of officials to be political for the purpose of such travel: White House officials who may advise on political matters (e.g., Donald Rumsfeld, Robert Hartmann, John Marsh, Ron Nessen, Richard Cheney, etc.), speechwriters, advancement, and a White House photographer.

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Therefore, on future Presidential travel the appropriate political committee will be charged by DOD for its pro rata share of the hourly costs of using government-owned aircraft, based on the percentage of the passengers on board who are present mainly or in part for a political purpose.

(2) Costs of Operating Government-Owned Aircraft
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In order to assure that all costs related to the political portion of a trip are treated as political costs, the appropriate political committee will be charged the expenses for each political stop of any member of the Presidential party who is present mainly or in part for a political purpose, as determined above. Thus, political funds will pay the expenses of the President and these other officials, but not the expenses of those persons who are present to support the President entirely in his official capacity.

Such items as communications arrangements, motorcades, automobile rentals, and other miscellaneous items are readily identifiable as to their purpose, and are to be paid by the appropriate political committee when they are for political purposes.

Where an item, such as the cost of a bus for a motorcade involves a mixed purpose, e.g., transporting the members of the Presidential party who are considered to be present for a political purpose, and also those serving the President in his official capacity, the appropriate political committee will bear the full cost of that item.

In every case where a candidate for Federal office is an incumbent, either in an office to which he seeks re-election or in another office, his campaign activities may become intermingled with his official activities, and similar problems will arise in ascertaining which costs he incurs are campaign-related. The proposals herein made provide a reasonable method for resolving such problems.

(4) Services of Government Personnel

For the purpose of identifying the costs of travel to be borne by the appropriate political committee, we understand that it is not necessary to apportion the salaries of those members of the personal staffs of incumbent candidates for Federal office within either the Executive or Legislative Branches who, in addition to their official duties, also participate in some limited political activities. For example, employees "paid from the appropriation for the office of the President "are exempted by 5 U.S.C. 7324(d)(1) from the general prohibition contained in 5 U.S.C. 7324(a)(2) against Executive Branch employees participating in "political management or in political campaigns." This section effectively places the White House staff in a position comparable to that of the personal staffs of members of Congress.

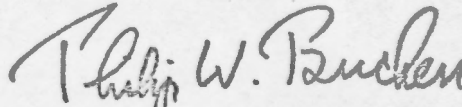
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The reason for this letter is to bring to the Commission's attention the means by which we intend to attribute to a political committee the costs of the President's travel for purposes of support of the

Republican Party, support of specific candidates, or support of his own candidacy. To the extent this treatment may be different from that proposed by the General Counsel, we do not imply that a change need be made in the proposed opinion of such counsel. Rather we believe that the proposed opinion is consistent with the requirements of the applicable law and that if a more liberal attribution of expenses is made to a political committee such is within a candidate's discretion.

We intend to now implement with respect to future travel by the President, this treatment for attribution of such travel costs. We would appreciate very much any comments or suggestions the Commission may think are appropriate to make with respect to our treatment of the President's travel costs.

Sincerely,

A handwritten signature in dark ink, reading "Philip W. Buchen". The signature is written in a cursive style with a large, stylized "P" and "B".

Philip W. Buchen
Counsel to the President

The Honorable Thomas B. Curtis
Chairman
Federal Election Commission
Washington, D.C. 20463

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Huey Helicopter (VH-IN)

Cost per hour:	\$ 262.00
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THE WHITE HOUSE

WASHINGTON

September 3, 1975

Mr. Buchanan
copy

Dear Mr. Curtis:

This is in response to Notice 1975-38 (F.R. 40202) in which the Federal Election Commission has sought comments concerning a request from the campaign manager for Mr. Louis Wyman for an opinion of the FEC General Counsel on several questions relating to possible travel by "President Ford and former Governor Reagan" to New Hampshire for the purpose of endorsing Mr. Wyman in the September 16, 1975, special Senatorial election. The General Counsel has proposed for Commission review an opinion responding to this request which states, in part, as follows:

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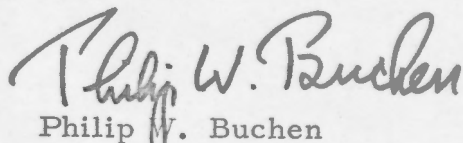
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THE WHITE HOUSE

WASHINGTON

September 3, 1975

*Chroy sent
Copy sent
by Hughes.*

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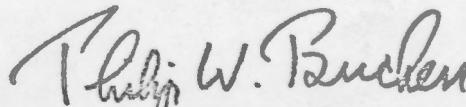
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Bentsen NEWS FOR president

A copy of our report is filed with the Federal Elections Commission and is available for purchase from the FEC, Washington, D.C.

September 3, 1975
FOR IMMEDIATE RELEASE:

Contact: Bob Healy 202/544-1070

Washington, D.C. - Senator Lloyd Bentsen (D-Tex.) charged Wednesday that General Counsel to the Federal Election Commission is seeking to open a "triple loophole" in the campaign funding law which would benefit only an incumbent President.

In a letter to FEC Chairman Thomas B. Curtis, Bentsen responded to a request for comment on the opinion of FEC counsel John G. Murphy regarding a trip by President Ford to New Hampshire this month.

Murphy maintains that travel expenses for the New Hampshire trip should not be charged against Ford's expenditure limit as a candidate for President; that money spent by the Republican National Committee is not a contribution to the Ford campaign subject to a \$5,000 contribution limit by political parties to candidates for their presidential nomination; and that, even if expenditure and contribution limits applied, the Ford campaign should be charged only the "equivalent commercial rates."

"The General Counsel reasons that a Ford appearance in New Hampshire -- five months before its important Presidential primary, on business that he admits is political -- will have a major impact only on the Wyman Senate candidacy and rarely a 'carryover effect' on the President's expected candidacy in the New Hampshire primary," Bentsen said.

Noting that press secretary Ron Nessen has indicated that Ford plans to have the Republican Party pay for all his political trips this year, Bentsen said "each time my political committee receives a contribution in cash or in kind from a qualified political committee, those contributions are subject to a \$5,000 limit."

"Each time I make an expenditure for campaign travel, those expenditures are charged to my \$10 million primary expenditure limit -- even if I have been invited to speak on legislative matters before a Chamber of Commerce or other large group."

"Each time another political committee charts a plane for my campaign travel, the full charter rate is a contribution to my campaign and a charge against my overall expenditure limit."

"I do not advocate limiting the amounts paid by the Federal government to support the President in his official capacity while on his political travels. I am not seeking in any way to restrict or hamper the President in carrying out the duties of his office," Bentsen said.

"Nevertheless, where private money is used to defray the cost of political travels, the FEC should count the full amount as a contribution or expenditure. Surely, an incumbent President has enough advantages by virtue of his incumbency without the Federal Election Commission carving out additional exceptions from the law for his sole benefit," Senator Bentsen said.

PFC

THE WHITE HOUSE

WASHINGTON

September 3, 1975

MEMORANDUM FOR: JIM CONNOR

FROM: BARRY ROTH *BR*

Ray Zook advises that a chartered 727 to Denver for an overnight stay and return the next day to Washington would cost approximately \$27,000, on the basis of his average costs for the last ten rentals of such a plane. This figure is subject to a number of variables, that can only be determined at the precise point in time such a plane is needed, and which could change this figure. The 727 holds approximately 100 persons, making the approximate per passenger cost of such a trip \$270. It does not have the range to fly non-stop to California.

Bill Gulley advises that the same trip to Denver aboard Air Force One would cost \$15,500. This plane has a capacity of either 52 or 54 passengers, for an approximate per passenger cost of either \$298 or \$287.

Thus, our conclusion that the net per passenger costs of travel aboard the charter or Air Force One is roughly equivalent is accurate in this particular case.

cc: Phil Buchen ✓



THE WHITE HOUSE

WASHINGTON

September 4, 1975

MEMORANDUM FOR: DICK CHENEY

THROUGH: PHIL BUCHEN

FROM: BARRY ROTH *BR*

SUBJECT: FEC Decision on Attribution of Presidential Travel Expenses to the Wyman Campaign

The Federal Election Commission (FEC) held an open hearing today at which it discussed the Wyman campaign request for an opinion concerning what, if any, costs related to a possible Presidential appearance on behalf of Wyman would be attributed to Wyman's campaign spending limitation. The FEC formally approved (an unusual, but favorable action) an opinion of their General Counsel which held that only the normal commercial rate for travel by the President, any advancement and other persons who serve primarily in a political role, need be attributed to the political campaign. Both Chairman Curtis and the General Counsel felt that the formula to be used for the President's political travels, as described in Phil Buchen's letter, is more restrictive than necessary. The General Counsel used Don Rumsfeld as an example of a person who he felt should be considered official. Although the FEC indicated that they would further examine this formula, their reaction was definitely favorable. The FEC also approved the portion of the opinion which stated that in this one particular case, such expenditures should not be attributed to the Ford Presidential campaign, but indicated they would not likely be so inclined in other circumstances.

In a related action, the FEC established a task force chaired by Vice Chairman Staebler (D) and Thompson (R) to study the apportionment of expenditures by all incumbent candidates, and not just the President.

Finally, in discussing the refusal of the Eugene McCarthy Committee to allow the FEC to audit their financial records, Chairman Curtis read from Bo Calloway's letter submitting a PFC fundraising manual to the FEC for review, and stated that the cooperation exemplified by the PFC was what the Commission expected from the other political committees.



THE WHITE HOUSE

WASHINGTON

September 4, 1975

MEMORANDUM FOR: DICK CHENEY

THROUGH: PHIL BUCHEN

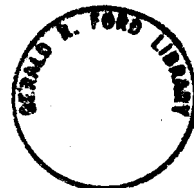
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Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

Political
9

CANDIDATE TO PAY COST OF FORD TRIP

Election Panel Ruling Applies
to New Hampshire Visit

By **WARREN WEAVER Jr.**

Special to The New York Times

WASHINGTON, Sept. 4 —

President Ford and former Gov.

torial candidate, but not against the ceilings for the actual or prospective national campaigns of the two visitors.

Commissioner Thomas E. Harris, the sole dissenter, protested that the agency was violating its earlier ruling that mid-1975 appearances by Democratic Presidential candidates in primary states were part of their 1976 campaign there, and thus subject to spending limits.

'One-Shot Exception'

amount candidates may spend in both primaries and general elections and the size of political contributions they may receive.

During the hour-long debate, the commission made public a six-page letter from the White House outlining how the President proposes to divide financing of his travels between public funds for his official duties and private funds for campaigning.

Ultimately, it will be up to the commission to decide whether the proposed White House

convention political trips should be limited to \$5,000 under the campaign law.

Mr. Buchen said only that "the appropriate political committee" would pay for the portion of White House travel that was classed as political under the formula he proposed.

Before passage of the 1974 campaign law, White House officials rarely if ever bothered to differentiate between a President's public activities and his political campaigning in terms of who was paying the bills.

all touring Government employees will work at least 40 hours a week beyond their travel time with the President.

The White House contemplates apportioning the cost of the military aircraft normally used by the President, which ranges from \$262 an hour for an eight-passenger helicopter to \$2,206 an hour for Air Force One.

The legal opinion approved by the commission today suggested charging "equivalent

proposed that the cost of appearances by national candidates on behalf of state and local candidates be divided among the spending ceilings of the various candidates and committees as they see fit, but he withdrew his amendment when it ran into opposition, leaving another controversial question unanswered.

FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

1325 K Street, N. W.
Washington, D. C. 20463
202-382-5162

September 5, 1975

Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

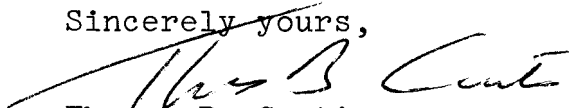
Dear Mr. Buchen:

Thank you for your letter of September 3, 1975, responding to the Commission's request for comment on the proposed Opinion of Counsel regarding the New Hampshire Senatorial Election scheduled for September 16, 1975. The information you supplied with respect to proposed allocation of costs for presidential travel was and remains most helpful to the Commission. I wish to stress that as the Commission develops its rules with respect to expenditure allocations for presidential candidacies over the coming months, the information and views set forth in your letter will receive the most careful consideration.

In the meantime the Commission thanks you for your prompt submission of views with regard to the immediate problems with the New Hampshire election.

We look forward to further communication with you with respect to this and other important problems under the Federal Election Campaign Act of 1971, as amended.

Sincerely yours,



Thomas B. Curtis
Chairman

TBC:me

FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

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September 5, 1975

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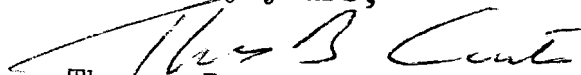
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Sincerely yours,



Thomas B. Curtis
Chairman

TBC:me

THE WHITE HOUSE
WASHINGTON

*Presidential
travel*

September 8, 1975

Dear Bob:

You may be interested in the enclosed draft of regulations issued by the Treasury Department which deals in part with the effects of employer-financed travel on the employee, his family and his guests. I think the implications for the President are very favorable.

Best wishes.

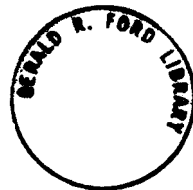
Sincerely,



Philip W. Buchen
Counsel to the President

Mr. Robert J. McBain
Robert J. McBain & Company, P. C.
435 Old Kent Building
Number One Vandenberg Center
Grand Rapids, Michigan 49502

Enclosure



DRAFT



Republican
National
Committee.

Mary Louise Smith
Chairman

Revised

September 10, 1975

Honorable Thomas B. Curtis
The Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20005

Dear Chairman Curtis:

As indicated by Philip W. Buchen, Counsel to the President, on August 7, 1975, the Republican National Committee (R.N.C.) has undertaken the payment of certain expenditures incurred by the President, Vice President and their aides when engaged in National, state or local political party promotional activities. He correctly observed that these R.N.C. expenditures are within the public domain, having been filed quarterly by the R.N.C. with the Federal Election Commission, the Clerk of the House of Representatives and the Secretary of the United States Senate. This correspondence shall serve to further amplify those filings, to discuss the historical tradition associated with the President's role and obligation as head of the Republican Party, to consider alternative sources of payment for such expenditures, and, finally, to briefly categorize the items paid for by the Republican National Committee.

Mr. Buchen's letter of September 3, 1975, responded to F.E.C. Notice 1975-38 (F.R. 80202) wherein the Commission, "sought comments concerning a request from the Campaign Manager for Mr. Louis Wyman". Counsel's correspondence disclosed the method employed by the White House to allocate the cost of operating Government-owned aircraft on political and mixed official-political trips by the President, Vice President and their aides. Accordingly, this Memorandum will not address itself to the apportionment formula contained in Mr. Buchen's letter of September 3, 1975.

Honorable Thomas B. Curtis
Page 2
September 10, 1975

The question to be considered is:

"DOES THE FEDERAL ELECTION CAMPAIGN LAW OF 1974 HAVE APPLICATION TO THE HISTORICAL TRADITION OF A NATIONAL POLITICAL PARTY'S PAYMENT OF EXPENSES INCURRED BY THE PRESIDENT OF THE UNITED STATES, THE VICE PRESIDENT OF THE UNITED STATES AND THEIR AIDES WHILE ENGAGED IN NATIONAL, STATE, OR LOCAL PARTY PROMOTIONAL ACTIVITIES?"

The question of the Federal Election Campaign Law's application is restricted to expenses incurred for acts of the President, Vice President and their aides when engaged in Republican Party political activities and is not addressed to those expenses incurred by the President, Vice President and their aides when engaged politically on behalf of any individual political candidate, including the candidacy of the President and Vice President themselves.

National political parties in the United States arose in the late Eighteenth and Nineteenth centuries. What had been largely legislative parties evolved into constituency-based parties when the states expanded male suffrage by eliminating property-owning and taxpaying qualifications for the voting franchise. Although not mentioned in the American Constitution, National political parties have historically served to effectuate, organize and promote the exercise of the franchise right by the electorate.

In the early days of the Republic, Federal candidates had no great need for funds to reach a vast popular electorate. The electorate was widely scattered, served by a primitive communication system and largely restricted in its size by racial, sexual and property holding qualifications. The typical campaign was waged, almost exclusively, in the newspapers and financed largely by the individual candidates themselves. With the abolition of voting right restrictions, a new electorate resulted. To service, to communicate and to persuade that new electorate, National political parties evolved.

Honorable Thomas B. Curtis
Page 3
September 10, 1975

The American President has traditionally served as the leader of his party. President John F. Kennedy viewed the presidents' partisan role in the following manner:

"No President, it seems to me, can escape politics. He has not only been chosen by the nation--he has been chosen by his party. . . if he neglects the party machinery and avoids his party's leadership--then he has not only weakened the political party. . . he has dealt a blow to the democratic process itself."^{1/}

In the minds of the public, the programs of the President are also the programs of his party; his personal success or failure becomes the party's success or failure. The Chief Executive is the embodiment of his party.

Thomas W. Madron and Carl P. Chelf, 1974 treatise titled Political Parties in the United States, commented on the President's role as head of the party:

"Frequently the party and the executive constitute a sort of mutual accommodation society. . . the executive uses the party as a channel for interacting with other elements in the political system, while on other occasions the executive will function as a vehicle for promoting party goals."^{2/}

But, who shall assume the cost incurred when the executive so functions?

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Quoted by Stuart G. Brown, The American Presidency: Leadership, Partisanship, and Popularity (New York: The Macmillan Co., 1966) Flyleaf.

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Honorable Thomas B. Curtis

Page 4

September 10, 1975

The Federal Election Campaign Law of 1974 reflects definitional distinctions between a "national committee" [2 U.S.C. 431(1)], a "state committee" [2 U.S.C. 431(1)], and a "political committee" [2 U.S.C. 431(d)]. These distinctions are indicative of Congress' recognition of the existence of general partisan activity conducted on an ongoing basis by National political parties when compared to those activities of a specific candidate's organization seeking election to a specific office within a specific geographical area. State and National party organizations engage in a day-to-day business which, among other things, includes maintaining offices, staffs, telephones, registration drives, speaker programs, publications, research, travel, fund raising, convention arrangements and voter education in both election and non-election years. The 1974 Act contains no limiting provision for contributions to and/or expenditures by a National or State political party for these functions. The Act does limit the amounts that National and State parties may contribute to individual candidates for office, but does not impose a maximum monetary budget for the conduct of ongoing party business.

Political campaign committees accept contributions and make expenditures that are identifiable with that committee's support of its particular candidate for a particular office. National political parties, conversely, are charged with the ongoing responsibility of creating voter recognition of party identity and ideology, without reference to an individual candidate or election. A large measure of this function is performed by the President, Vice President and their aides on behalf of their National and State parties. When these party functions are performed and costs result from same, the beneficiary of those functions, i.e., the National or State political parties, should and does assume the cost incurred.

Obviously, some slight personal political dividends may accrue to an incumbent President traveling and speaking on his National party's behalf simply by the Presidential exposure. Such incidentals, as name recognition and constituency exposure, are not specifically

Honorable Thomas B. Curtis
Page 5
September 10, 1975

prohibited by the Federal Election Campaign Law and are, in fact, reserved under the Act, itself, to incumbent United States Senators and Representatives seeking reelection by virtue of the Act's allowed continuing use of franked mail privileges after a declaration of candidacy [2 U.S.C. 439(b)]. The legislative body that enacted the Federal Election Campaign Law rightfully concluded that a declaration of candidacy should not prohibit a legislator from continuing to conduct his or her usual, routine ongoing business, and thereby allowed continued free mailing privileges even when seeking reelection. To postulate a different rule for an incumbent President seeking reelection, and thereby mandating an abdication by an incumbent President of his continuing to conduct routine ongoing National party obligations, would be manifestly unfair. He would be required, as President Kennedy suggested, to avoid the party's leadership role he was chosen to fulfill, and thereby weakening his political party and dealing a blow to the democratic process itself. 10/10

Congress further recognized Congressional officeholders' needs for supportive funds during the period of their incumbency. Section 439(a) of the Act permits Congressional candidates to use political contributions received, in excess of expenditures incurred, to defray the "ordinary and necessary" expenses associated with the activities of a Federal officeholder, subject only to disclosure to the Federal Election Commission. The ordinary and necessary expenses associated with the activities of Federal legislative officeholders are not dissimilar to those activities undertaken by a Presidential party head in furtherance of his National party's goals.

Partisan political activity is a recognized and Federally codified facet of an incumbent President's ordinary business. The purpose of the Federal Hatch Act (5 U.S.C. 7321, et seq.) is to prohibit partisan political activities by employees of the Executive Branch of the Federal government. That prohibition excludes employees of the Office of the President. This statutory exclusion

Honorable Thomas B. Curtis

Page 6

September 10, 1975

is a Congressional recognition of the inherent partisan nature and duties of the Presidency. It does not necessarily follow that because Congress recognized the political role of the President of the United States as head of his party, and authorized his aides to assist him in fulfilling that role, that the expenses thereby incurred should be borne by the Treasury of the United States. As suggested earlier, the more feasible and practical alternative to the taxpayer bearing these costs is that payment of these obligations be assumed by the beneficiary of the acts, i.e., the President's National political party.

In 1975, the Republican National Committee allocated the sum of Five Hundred Thousand Dollars (\$500,000) to support the activities of the President, the Vice President and their aides when engaged in the role as head of the National party. This budgetary allotment is consistent with past years budgets, without regard to the year in question was an election or nonelection year. On September 1, 1975, the Republican National Committee had received and paid bills totaling Three Hundred Nine Thousand Dollars (\$309,000) toward the annual allotment. The Republican National Committee has filed quarterly reports reflecting its quarterly expenditures with the Federal Election Commission since the establishment of that agency. The Republican National Committee believes that it is the proper body to assume these expenditures, just as presumably, the Democratic National Committee believed it was the proper body to pay the expenses incurred by Democratic Presidents engaged in their National party affairs during the years 1960 through 1968.

When the President, Vice President and their aides are engaged in political activity on behalf of their National or State political parties, the R.N.C. assumes the cost of their travel and transportation, advance men expense, telephone and telegraph cost and the cost of receptions incidental to those activities. In addition, the Republican National Committee assumes the costs incurred for films and photographs taken during such Presidential

Honorable Thomas B. Curtis
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September 10, 1975

travel and the expense of Presidential and Vice Presidential gifts such as cuff links, tie bars and charm bracelets picturing the Presidential or Vice Presidential seal.

The Republican National Committee does not assume the expenses resulting from Presidential and Vice Presidential travel incurred when engaged in Presidential or Vice Presidential candidacy or travel associated with the candidacy of other individuals. In those instances, the candidate's committee is required to pay all cost, in accordance with the strictures of the Federal Election Campaign Law. With one notable exception, the R.N.C. does not pay any of the expense associated with Presidential official travel, i.e., travel occurring as an adjunct to the Chief Executive's role as President of the United States, having no political overtones. That exception is the expenditures incurred by advance men during Presidential official travel. These charges are incurred by individuals, most frequently not employed by the Government, and not engaged in any official Governmental business. Although the National Committee is not, per se, a beneficiary of official Presidential travel, it assumes the advance men cost on official trips in the belief that such an expenditure from the United States Treasury would be unjustified. All other expenditures incurred during the Presidential official travel are borne by the White House budget.

The differing roles of a Presidential candidate and a Presidential party leader are sometimes subtle, but nonetheless real and subject to dispassionate analysis. The past and present system of payments by National political parties for expenses incurred by the President, Vice President and their aides for party promotional activity has the virtue of fairness. The alternatives, full payment of Presidential party promotional expenses by the taxpayers or, in those years when applicable, by the incumbent President's campaign committee, are simply not practicable. The former would constitute an improper expenditure of

Honorable Thomas B. Curtis
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Government funds and the latter imposes an equitable disadvantage upon incumbent Presidents seeking re-election, requiring them to deplete a significant amount of their Ten Million Dollar (\$10,000,000) primary election limit for expenses unrelated to their primary campaign effort. Incumbency would then become a serious political liability to an American President.

The Republican National Committee plans to continue to implement the procedures outlined in this communication. We would appreciate very much any comments or suggestions that the Commission may think appropriate to make with respect to our treatment of the payment of expenses incurred by the President, the Vice President and their aides when engaged in party promotional activities.

Sincerely yours,

MARY LOUISE SMITH
Chairman



Republican National Committee.

Mary Louise Smith
Chairman

*Barry
has
a
copy.*

September 15, 1975

Honorable Thomas B. Curtis
The Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20005

Dear Chairman Curtis:

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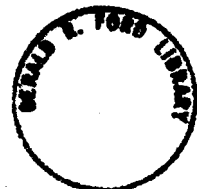
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Honorable Thomas B. Curtis
Page 3
September 15, 1975

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Honorable Thomas B. Curtis

Page 4

September 15, 1975

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Political campaign committees accept contributions and make expenditures that are identifiable with the committee's support of its particular candidate for a particular office. National political parties, conversely, are charged with the ongoing responsibility of promoting voter registration and creating voter recognition of party identity and ideology, without reference to an individual candidate or election. A large measure of this function is performed by the President, Vice President and their aides on behalf of their National and State parties. When these party functions are performed and costs result from same, the beneficiary of those functions, i.e., the National or State political parties, should and does assume the cost incurred.

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Honorable Thomas B. Curtis

Page 5

September 15, 1975

the President and the President, himself. This statutory exclusion is a Congressional recognition of the inherent partisan nature and duties of the Presidency. It does not necessarily follow that because Congress recognized the political role of the President of the United States as head of his party, and authorized his aides to assist him in fulfilling that role, that the expenses thereby incurred should be borne by the Treasury of the United States. As suggested earlier, a more feasible and practical alternative to the taxpayer bearing these costs is that payment of these obligations be assumed by the beneficiary of the acts, i.e., the President's National Political Party.

The obligation to assume a party role for one's National Political Party is not restricted to the President of the United States. Senators and Congressmen frequently are called upon to function as spokesmen for, to aid in fund raising events of, and, generally, to represent their own National Political Party. Such a party role is often undertaken by Members of Congress after announcing their candidacy for reelection to the position they presently hold and/or after announcing their candidacy to the Office of President of the United States. The costs incurred by a United States Senator, who is an announced candidate for the Presidency, when attending a fund raising event for his National or State Party should not deplete his Ten Million Dollar (\$10,000,000) Presidential primary effort. The party role performed by such individuals, acting as party spokesmen at party function, is identical to that party role of a President. Neither incurs the expenditures associated with their role in furtherance of their quest, " . . . for nomination for election, or for election, to Federal office . . . " (18 U.S.C. 608). Democratic National Committee Chairman Strauss' September 5, 1975, press release reflected his disagreement with this principle and argued:

"Suppose I as Chairman of the Democratic Party, should name one of our presidential candidates, or four of them, or all of them, as party leaders and sent them around the country at D.N.C. expense, without limit, and without allocating charges against their spending limits?"



Honorable Thomas B. Curtis

Page 6

September 15, 1975

Where the purpose of an expenditure is not for furthering an individual's candidacy, it is both wrong and unjust to insist that the political status of an individual's candidacy automatically denies to the National Political Parties the party services of its party spokesmen. If that is to be the result, then an artificial distinction has been established which ignores the purpose of the expenditure and, at the same time, expands 18 U.S.C. §608 to limit expenditures which are made for purposes other than those covered by the statute.

In 1975, the Republican National Committee allocated the sum of Five Hundred Thousand Dollars (\$500,000) to support the activities of the President, the Vice President and their aides when engaged in a party role. This budgetary allotment is consistent with past years budgets, without regard to whether the year in question was an election or nonelection year. On September 1, 1975, the Republican National Committee had received and/or paid bills totaling Three Hundred Nine Thousand Dollars (\$309,000) against the annual allotment. The National Party and various State Parties have been substantially aided financially and otherwise by this effort. The purpose of the travel associated with these payments by R.N.C. was not to further the candidacy of the incumbent President, but rather to further Republican Party interest. The Republican National Committee has filed quarterly reports reflecting its quarterly expenditures with the Federal Election Commission since the establishment of that agency. The Republican National Committee believes that it is the proper body to assume these expenditures, just as the Democratic National Committee believed it was the proper body to pay the expense incurred by Democrat Presidents engaged in their National party affairs during the years 1960 through 1968.

When the President, Vice President, and their aides are engaged in political activity on behalf of their National, State or Local political parties, the R.N.C. assumes the cost of their travel and transportation, advance men expense, telephone and telegraph cost and the cost of receptions incidental to those activities. In addition, the Republican National Committee assumes the costs incurred for films and photographs taken during such Presidential travel and the expense of Presidential and Vice Presidential gifts such as cuff links, tie bars and charm bracelets picturing the Presidential or Vice Presidential seal.



Honorable Thomas B. Curtis

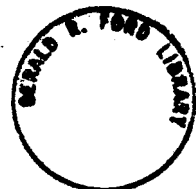
Page 7

September 15, 1975

The Republican National Committee does not assume the expenses resulting from Presidential travel incurred when engaged in Presidential candidacy or Presidential travel associated with the candidacy of other individuals. In those instances, the candidate's committee is primarily responsible for the payment of cost, in accordance with the structures of the Federal Election Campaign Law. With one notable exception, the R.N.C. does not pay any of the expense associated with Presidential official travel, i.e., travel undertaken by the President of the United States in his role as Chief Executive. That exception is for certain expenditures incurred by advance men in relation to official travel by the President. These expenditures, which in most cases are for persons not employed by the Government, are assumed by the R.N.C. because the Chief Executive's appearances, regardless of their purpose, further party interest. All other expenditures incurred during the Presidential official travel are borne from appropriated funds.

The differing roles of a Presidential candidate and a Presidential party leader are sometimes subtle, but nonetheless real and subject to dispassionate analysis. The past and present system of payments by National political parties for expenses incurred by the President, Vice President and their aides for party promotional activity has the virtue of fairness. The alternatives, full payment of Presidential party promotional expenses by the taxpayers or, in those years when applicable, by the incumbent President's campaign committee, are simply not practicable. The former would constitute an improper expenditure of Government funds and the latter imposes an inequitable disadvantage upon incumbent Presidents seeking reelection, requiring them to deplete a significant amount of their Ten Million Dollar (\$10,000,000) primary campaign effort. Incumbency would then become a serious political liability to an American President.

The Republican National Committee plans to continue to implement the procedures outlined in this communication. Naturally, the records of the R.N.C. reflecting these past expenditures are available for inspection by the F.E.C., should the Commission so desire. We would appreciate very much any comments or suggestions that the Commission may think appropriate to make with respect to our



Honorable Thomas B. Curtis
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September 15, 1975

treatment of the payment of expenses incurred by the President, the Vice President and their aides when engaged in party promotional activities.

Sincerely yours,

MARY LOUISE SMITH
Chairman



THE WHITE HOUSE
WASHINGTON

Date 9/19

TO: PWB

FROM: Barry Roth ~~LL~~

For your information. Bob
Visser informs me that the
FEC may also be contacting
you for the purpose of
discussing our letter on
fund allocation in connection
with their task force's overall
study. This is no problem.

MEMORANDUM

September 16, 1975

TO: Bo Callaway
Dave Packard

FROM: Bob Visser *RV*

RE: Task Force on Allocation of Funds -
Federal Register Notice

Attached hereto is an FEC Memorandum regarding a proposed Federal Register Notice setting forth questions concerning allocation of funds. I would appreciate it if you would please review the proposed questions and let me have any comments or suggestions.

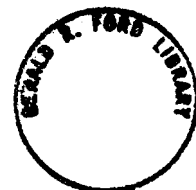
I should note that with regard to question numbered 9, with respect to apportionment of fund raising expenses for Presidential candidates on a state by state basis, the General Counsel has informally advised me that it is the conclusion of his legal staff that the 20% allocation formula for fund raising expenses is not applicable to the states but will be charged only against the \$10,000,000 "expenditure limitation".

There is a meeting of this task force this afternoon at 3:00 PM and I would appreciate any thoughts you have with regard to this list of questions, or other additional questions you would like to see submitted, given to me by noon today.

Thank you.

cc: Phil Buchen
Bob Moot

em



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

September 18, 1975

MEMORANDUM TO: THE TASK FORCE ON ALLOCATION OF FUNDS

FROM: Bill Loughrey

SUBJECT: Proposed Federal Register Publication (for your comments).

The Federal Election Commission is preparing Regulations and Policy Statements to implement the Federal Election Campaign Act of 1974. Any interested person(s) or organization(s) are invited to submit written comments to the FEC concerning any part of this Notice.

A. The Commission seeks guidance and comments on the allocation of contributions and expenditures:

- (1) among candidates;
- (2) between political party committees and the candidates they support;
- (3) between non-party committees and the candidates they support.

B. The Commission hopes to promulgate general principles for allocating contributions and expenditures among candidates and committees. The Commission solicits public comments on developing a basic philosophy for such allocations. In general:

(1) Should the rules be as simple and general as possible, or should they be more detailed; thereby giving candidates and committees specific guidance?

(2) Should the Commission simply allow reasonable estimated allocations among candidates and committees; thereby risking possible inequities and difficulties in enforcement or should it provide for comprehensive, specific regulations and thus reduce the possibilities for inequities but increase the regulation of campaigns and the complexity of campaign finance laws?

(3) Should political party and non-party committees be treated differently?



MEMORANDUM TO: THE TASK FORCE ON ALLOCATION OF FUNDS

September 18, 1975

Page Two

(4) Should allocation formulas rely on self-policing or on enforcement and compliance actions on the part of the Commission?

(5) Should allocation systems be structured as much as possible to allow candidates free choice within reasonable bounds?

The Commission also solicits public comment on specific problems in allocating contributions and expenditures. Below, the Commission cites these problems and gives some examples for illustrative purposes. Specifically, how should the Commission provide for the allocation:

(1) of political travel expenses for incumbent Presidents? For security reasons, Presidents must use special transportation such as Air Force One. For both safety and official government purposes, members of the President's staff frequently accompany him on political trips. The President may make public appearances as titular head of his Party. The President may also combine official government activities with those that are political or campaign-related in nature. To what extent should such activities be classified as political expenditures and be attributable to expenditure limitations?

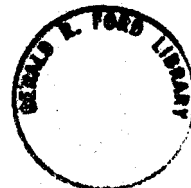
(2) of travel expenses for non-incumbent candidates for President? Are all travel expenses by a candidate for President chargeable to the candidate's expenditure limitation?

(3) of travel expenses for incumbent Members of Congress? Members of Congress are allowed a specified number of trips to their State or Districts at government expense. Are all trips above this allotment a "political expenditure"? Are such "official business" trips campaign expenditures if political appearances are made?

(4) of travel expenses of non-incumbent candidates for Congress?

(5) of travel expenses for candidates campaigning on behalf of other candidates? Should such costs be charged to both candidates, a portion to each candidate, or to neither candidate?

(6) of travel expenses of nationally prominent figures who campaign on behalf of candidates? Are such outlays contributions "in-kind"?



MEMORANDUM TO: THE TASK FORCE ON ALLOCATION OF FUNDS
September 18, 1975
Page Three

(7) of expenses between private personal expenses and campaign expenditures? Candidates may buy new suits and other similar items for campaign appearances and activities. A candidate may take a family vacation and bring along his campaign staff. To what extent are such activities campaign expenditures?

(8) of expenses for public appearances which are political but not directly campaign related? For example, a candidate may appear as a Party Official at a Party function.

7 (9) of fundraising expenses for Presidential candidates? Should fundraising expenses for Presidential candidates be allocated on a State-by-State basis?

(10) of expenditures of Presidential candidates for National headquarters?

(11) of expenditures for partisan registration and get-out-the-vote activities which benefit, directly or indirectly, candidates for Federal Office?

(12) of expenses for mass mailings, phone banks and other similar activities by multi-candidate and political party committees on behalf of two or more Federal candidates?

(13) of consulting services, photographic and recording services and other similar services provided on a pooled basis by multi-candidate and political party committees to two or more Federal candidates?

(14) of goods and services provided by the Senate Recording Studio, House Recording Studio, Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee or National Republican Congressional Committee to Members of Congress or candidates for Federal office?

(15) of expenditures made jointly by two or more Federal candidates on their own behalf?

(16) of paid workers, headquarters and other goods and services provided by political parties to all candidates on the Party ticket?

(17) of day-to-day administrative and general overhead expenses of multi-candidate and political party committees?



MEMORANDUM TO: THE TASK FORCE ON ALLOCATION OF FUNDS
September 18, 1975
Page Four

(18) of expenditures made by an individual running for more than one Federal office?

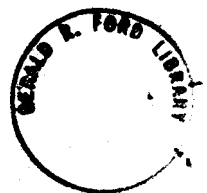
(19) of fundraising expenses by multi-candidate or political Party committees made directly or indirectly, on behalf of identifiable candidates for Federal office?

(20) of expenditures made jointly by or on behalf of both State or local and Federal candidates?

(21) of expenditures between primary and general elections?

(22) of expenditures made in two or more States?

WL:jet



THE WHITE HOUSE

WASHINGTON

September 19, 1975

MEMORANDUM FOR: JIM CONNOR
THROUGH: PHIL BUCHEN *P.W.B.*
FROM: BARRY ROTH *BR*
SUBJECT: Status on FEC Related Questions

Referencing your request, the following should bring you up-to-date on the "legal" questions raised by Dick Cheney concerning the payment of various Presidential expenditures:

Are we going to seek a final authoritative ruling? Not exactly. The RNC has instead written to the FEC (at Tab A) explaining their practice of making expenditures on behalf of the President and Vice President, inviting the FEC to examine their financial records, advising that the RNC intends to continue to make these expenditures, and finally requesting comments or suggestions from the FEC on this practice. Although the RNC letter did not request an advisory opinion, the FEC General Counsel told Bill Cramer that they will probably treat it as a request for an advisory opinion.

With respect to our formula for the apportionment of travel expenses between the appropriate political committee and the government, Chairman Curtis has written to Phil Buchen (at Tab B) thanking him for our letter. No comments from the FEC will be made at this time, although informally they have indicated that we are unnecessarily restrictive in requiring the political committee to pay travel of persons they view to be primarily official.

Have we resolved the question of how we handle the staff traveling on the press plane? No, and in order to preserve our flexibility we recommend that we wait at least until the FEC has responded to the RNC. Phil Buchen explained the press travel account to the FEC in his letter of August 7, and at that time invited the FEC to look at our records for this account. From an FEC standpoint, an immediate change

is unnecessary. At the present time, only the Press Office staff travels "free" aboard the plane. All other passengers pay their own way. At least for the interim, this practice is satisfactory.

With respect to the remaining questions concerning continued RNC expenditures, we must await the FEC response to the RNC. We believe that the concept of the President's role as head of the party as presented by the RNC does have merit. However, we can not safely predict what the FEC opinion will be. An appearance of abuse of this practice could be used by the FEC to justify an adverse ruling. From a quantitative standpoint, our plans to have approximately 40 RNC trips, but no candidate trips during the remainder of the year, do raise such questions.

Although no clear dividing line exists, the President's speech to the Republican women in Dallas does seem to be very similar to the type of speech a candidate would give. Even though the invitation to appear comes from the RNC, we must also look at what the President says and does at a particular event. For these reasons, we recommend that consideration be given to at least a few candidate trips this year. In addition, before finally determining who pays for any trip, we should review the transcript of the speeches that were actually made, and not just the drafts that were staffed out. We believe that we should discuss these points further as soon as possible.

You should also be aware that the FEC last week adopted language in an advisory opinion to suggest that, as a general policy, their rulings will be prospective in application on questions where the law is not clear and the candidate has acted in good faith by following traditional practices. The RNC has requested that we not rule out the possibility of their appealing an adverse ruling to the courts. However, the President, at his Tuesday press conference, stated that we would follow any FEC rulings in this regard.

THE WHITE HOUSE

WASHINGTON

September 10, 1975

MEMORANDUM FOR: JIM CONNOR
FROM: DICK CHENEY

I need a status report on where we stand in terms of our filings with the Federal Election Commission to resolve once and for all the questions about who pays for what.

Are we going to seek final authoritative ruling?

Have we resolved the question of how we handle the staff travelling on the press plane?

Are we justified in having the RNC pay for trips when the President goes out and does a fund raiser?

Have you made provisions with Callaway so that he has some idea of the budget costs involved, if he has to pick up part of the tab now paid for by the RNC?

What about gifts, such as cuff links, etc. paid for by the RNC?

To Barry
Roth
action

THE WHITE HOUSE
WASHINGTON

Date 10/4

TO: Phil Buchen

FROM: Barry Roth

FEC questions on allocation
of candidate expenditures. Public
comments will be used to
help develop regulations which
would have to be approved by
the Congress.

FEDERAL ELECTION COMMISSION

[11 CFR Part 107]

[Notice 1975-58]

ALLOCATION OF CAMPAIGN EXPENDITURES AND CONTRIBUTIONS; IMPLEMENTATION OF FEDERAL ELECTION CAMPAIGN ACT

Advance Notice of Proposed Rulemaking

The Federal Election Commission (FEC) was established by the Federal Election Campaign Act Amendments of 1974 (Pub. L. 93-443, 2 U.S.C. 431 et seq.). The FEC is responsible for the administration of, for obtaining compliance with, and for formulating policy with respect to the Federal Election Campaign Act of 1971, as amended (the Act), and sections 608, 610, 611, 613, 614, 615, 616, and 617 of Title 18, United States Code (the Act and these sections are collectively referred to herein as the "Statutory Provisions"). Pursuant to these responsibilities, the FEC is preparing regulations to implement certain of the Statutory Provisions; the FEC proposes to make rules with respect to some or all of the allocation situations set forth herein below. Such regulations will be designed to insure that all persons and organizations subject to the Statutory Provisions are equally treated, and that the public interest requiring a clear development of constitutional safeguards is served. In addition, such regulations will be designed to be reasonable and practical, so that they may be understood and effectively used by the public and those who are subject to them.

Any interested person or organization is invited to submit written comments to the FEC concerning any part of this notice. The facts, opinions, and recommendations presented in writing, in response to this notice will be considered in drafting regulations related to the Statutory Provisions.

Set forth below is a general description of the subjects and issues concerning allocation that the FEC believes require the most immediate attention:

GENERAL ALLOCATION SITUATIONS

A. The Commission seeks guidance and comments on the allocation or attribution of contributions and expenditures made with the intent or effect of influencing the campaign of one or more candidates for federal office. Specifically, the Commission is concerned with the appropriate allocation of contributions and expenditures:

1. By a single candidate who engages in campaign activity in the course of other business or personal activities;
2. By one candidate campaigning on behalf of another, or among two or more candidates campaigning together;
3. Between a political party committee and the candidate(s) it supports;
4. By a non-party political committee among the candidate(s) it supports;
5. By other "persons" on behalf of candidate(s).

CONSIDERATIONS IN ALLOCATION

B. The Commission solicits public comment on the development of basic

principles and policy guidelines for the allocation of contributions and expenditures by, between and among candidates and committees. For example:

1. Should the Commission seek to promulgate rules that permit reasonable estimated allocations to be determined by candidates and committees themselves, recognizing that this may risk inequities and difficulties in enforcement; or should the rules be specific, thereby giving candidates and committees greater guidance?
2. Should the rules establish a single strict formula (such as an allocation of contributions and/or expenditures equally among candidates benefited) or should a more detailed and specific formula or formulas be established by the Commission? This involves the same question of possible inequities and enforcement difficulties vs. more complex rules as in #1 above.
3. Should enforcement of allocation rules and/or formulas rely on self-policing or on Commission enforcement and compliance actions?
4. Should party and non-party political committees be treated the same or differently?

EXAMPLES OF ALLOCATION QUESTIONS

C. The Commission invites public comment on the following questions as illustrative of those to which general principles and specific regulations would apply:

1. Allocation of activities of a single candidate:

a. Incumbent President: How should the political travel, appearance and fund-raising expenses of an incumbent President be allocated or attributed? For security reasons, Presidents use special transportation such as Air Force One. For both safety and official government activities with those that are political or campaign-related in nature. To what extent should activities be classified as political expenditures and be attributable to expenditure limitations?

b. Non-incumbent candidate for President: Are all travel expenses by a non-incumbent candidate for President chargeable to the candidate's expenditure limitation?

c. Expenses for incumbent Members of Congress: Members of Congress are allowed a specified number of trips to their State or Districts at Government expense. Are all trips above this allotment a "political expenditure"? Are such "official business" trips campaign expenditures if political appearances are made?

d. Travel expenses for non-incumbent candidates for Congress: How should such trips be treated?

e. Expenses between private personal expenses and campaign expenditures? A candidate incurs both normal and extraordinary travel and living expenses while campaigning. To what extent are such activities campaign expenditures?

f. Of fundraising expenses for Presidential candidates? Should fundraising expenses for Presidential candidates be allocated on a state-by-state basis?

g. Of expenditures made jointly by or on behalf of both State or local and Federal candidates?

h. Of contributions and expenditures between primary and general elections?

1. Of expenditures made in two or more States?

2. Allocation among two or more candidates:

a. Of travel expenses for candidates campaigning on behalf of other candidates: Should such costs be charged to the appropriate limits of candidates, a portion to each candidate, or to neither candidate?

b. Of expenditures made jointly by two or more Federal candidates on their own behalf?

3. Allocation between party-related organizations and candidate:

a. Of National Party expenditures for headquarters, benefitting Presidential candidate, and other Federal, state, and local candidates?

b. Of expenditures for partisan registration and get out the vote activities which benefit, directly or indirectly, candidates for Federal office?

c. Of expenses for mass mailings, phone banks and other similar activities by multi-candidate and political party committees on behalf of two or more Federal candidates?

d. Of goods and services provided by the Senate Recording Studio, House Recording Studio, Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee or National Republican Congressional Committee to Members of Congress or candidates for Federal office?

e. Of paid workers, headquarters and other goods and services provided by political parties to all candidates on the Party ticket.

f. Of day-to-day administrative and general overhead expenses of political party committees?

4. Allocation by committees other than party committees among candidates:

a. Of consulting, polling, photographic and recording services and other similar services provided on a pooled basis by multi-candidate and political party committees to two or more Federal candidates?

b. Of fundraising expenses by multi-candidate committees made directly or indirectly, on behalf of identifiable candidates for Federal office?

5. By other "persons":

a. Of travel expenses of nationally prominent figures who campaign on behalf of candidates? Are such outlays contributions "in-kind"?

Comment Period. Comments should be mailed to Rulemaking Section, Office of General Counsel, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463 by October 14, 1975. For further information call (202) 382-5162.

SEPTEMBER 26, 1975.

NEIL STAEHLER,
Vice Chairman, for the
Federal Election Commission.

[FR Doc.75-26295 Filed 9-30-75;8:45 am]

Q: The Democratic Senatorial Campaign Committee has today filed a letter with the Federal Election Commission (FEC) complaining that expenditures by the Republican National Committee (RNC) for your recent travels are in violation of the Federal Election Campaign Act. Do you intend to continue violating the Act?

A: I strongly believe that a President should undertake activities in support of his party.

I have done so as President, as well as Vice President, and Minority Leader, and these activities are not for furthering my candidacy. I certainly hope to be able to continue this work for my party.

As I have stated before, I can assure you that my campaign will comply fully with the Federal Election laws.

BACKGROUND POINTS

[(1) The RNC is seriously considering challenging in Court an adverse FEC ruling on this issue. For this reason they would like you to say that you will comply with the law rather than an FEC decision. (2) The Campaign Committee complaint calls for the reimbursement by the PFC of expenditures by the RNC for your travel.]

PWB 10/9/75

Q: The Democratic Senatorial Campaign Committee has today filed a letter with the Federal Election Commission (FEC) complaining that expenditures by the Republican National Committee (RNC) for your recent travels are in violation of the Federal Election Campaign Act. Do you intend to continue violating the Act?

A: I strongly believe that a President should undertake activities in support of his party.

I have done so as President, as well as Vice President, and Minority Leader, and these activities are not for furthering my candidacy. I certainly hope to be able to continue this work for my party.

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PWB 10/9/75

THE WHITE HOUSE

WASHINGTON

October 10, 1975

FEC

MEMORANDUM FOR:

DICK CHENEY

FROM:

PHIL BUCHEN *P.W.B.*

SUBJECT:

Democratic Senatorial
Campaign Committee
Letter to the FEC

Attached for your information is the letter from the Democratic Senatorial Campaign Committee which accuses the RNC of violating the Federal Election Campaign Act by its expenditures on support of the President as head of the party. It also proposes that the PFC be required to reimburse the RNC for such expenditures retroactive to either July 8 when the President announced his candidacy, August 21 when the FEC issued the "Bentsen" ruling that appearances by announced candidates before large groups were presumed to be campaign related, or September 4 when the FEC responded to Wyman.

While it is not possible to predict the FEC decision on this question, the FEC has previously taken the position that their rulings should be prospective rather than retroactive when the law is unclear and the question relates to a traditional campaign practice.

We are working with Bob Visser at the PFC and Benton Becker for the RNC on comments on Mary Louise Smith's letter, and which will also reflect some of the arguments made by the Democrat's complaint.

The DNC is expected to file additional comments next week in opposition to the RNC practice.



THE WHITE HOUSE

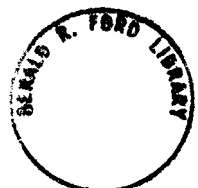
WASHINGTON

October 10, 1975

MEMORANDUM FOR: PHIL BUCHEN
FROM: BARRY ROTH *BR*
SUBJECT: Democratic Senatorial
Campaign Committee
Letter to the FEC

Attached is a copy of the Democratic Senatorial Campaign Committee's letter opposing RNC support for the President's party activities. I have attached a memorandum for you to send to Dick Cheney on this subject.

Although I have only given this a quick look at this point, their arguments aren't necessarily compelling. For example, with respect to the possibility of using union funds for Federal elections in circumvention of 18 U.S.C. 610, Benton may wish to offer to voluntarily segregate RNC accounts so such funds are used for this purpose. The FEC has already given some indication they may require this anyway. Of course, our position remains that the expenditures are not made for the purpose of furthering his candidacy and are outside the scope of the FECA. Benton will be at work on Monday and I will work up draft comments to support the RNC letter. The PFC is also preparing comments. Jack Murphy has given us an extension of time to comment until October 17.



DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE

ROOM 130 RUSSELL SENATE OFFICE BUILDING

WASHINGTON, D. C. 20510

TELEPHONE (202) 224-2447

ROBERT THOMSON
GENERAL COUNSEL

FRANK N. HOFFMANN
EXECUTIVE DIRECTOR
SECRETARY-TREASURER

SENATORS:

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MIKE MANSFIELD, MONT., EX OFFICIO
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WALTER F. MONDALE, MINN.
SAM NUNN, GA.
JENNINGS RANDOLPH, W. VA.
JOHN SPARKMAN, ALA.

October 7, 1975

The Honorable Thomas B. Curtis
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463



Dear Chairman Curtis:

On September 16, the Federal Election Commission received a letter from Mrs. Mary Louise Smith, Chairman of the Republican National Committee, informing the Commission of R.N.C. intentions to continue paying Presidential travel expenses without regard to the \$5,000 contribution limits in Section 608(b)(2) of Title 18, U.S. Code. On at least three occasions, the Commission has publicly indicated expenditures of this nature are subject to the contribution and expenditure limits in the 1974 Amendments to the Federal Election Campaign Act. Since R.N.C. payments to date have substantially exceeded \$5,000, I firmly believe the Republican National Committee and the Ford campaign committee are already in violation of the Act. Therefore, the Commission should immediately require the Ford committee to repay those travel expense payments that have exceeded \$5,000 and prohibit any further payments in excess of that amount.

If the Commission allows these violations to continue, incumbent Federal officeholders will have a decisive advantage over non-incumbent challengers in nearly every primary election. Moreover, such action would be in direct conflict with Commission interpretations restricting the activities of Democratic Presidential primary candidates before large groups, and limiting virtually all private funds received by members of Congress to support their activities as Federal officeholders.



As you know, Congress amended the campaign laws in 1974 by imposing a \$5,000 limit on political committee contributions to Federal candidates. Committees may also independently spend \$1,000 on behalf of a clearly identified candidate. However, in general elections, party committees have a higher limit equal to two cents times the voting age population of the electorate.

By allowing the higher party committee limits for general elections only, Congress recognized a basic political fact that the R.N.C. would have the Commission ignore. With few exceptions, incumbent officeholders control the political parties. Therefore, only incumbents could effectively benefit from a provision allowing parties to spend greater amounts on behalf of candidates in their primary elections as well as in general elections.

Similarly, if the Commission allows certain primary candidates to receive unlimited travel expense from their parties while campaigning as "party leaders", only incumbents will benefit in the vast majority of cases. Obviously, the party will rarely sponsor speaking tours by those who are trying to unseat the party's incumbent officeholders in the primary. The non-incumbent challengers will be forced to pay for political travel with their own campaign funds when seeking their party's nomination, and such expenses will be charged against their spending limits.

Incumbents have advantage enough in party primaries. It is not necessary for the Commission to sanction additional exceptions from the spending limits for their particular advantage.

If the Commission were to sanction such loophole spending, both the letter and the spirit of the Title 18 contribution restrictions would be violated. The law allows individuals to contribute up to \$25,000 per year to party committees. Political committees maintained by special interests can contribute an unlimited amount to party committees. The R.N.C. suggests that party committees, in turn, can spend an unlimited amount paying travel expenses of primary candidates if such candidates happen to be "party leaders." Obviously, such an interpretation, if adopted by the Commission, would make a sham out of the contribution limits and allow the special interests to pour unlimited amounts into the primary campaigns of the President and other incumbent officeholders.

Even more serious than that, such a rule would once again open the door for corporate and union spending in campaigns for Federal office. The R.N.C. proposal would allow state party committees to pay from their general treasuries the travel expenses of those primary candidates who are on "party business" without application of the Federal campaign laws. Since over half the states allow party business to be financed by labor organization and corporate contributions, such a device could obviously be a means for avoiding Section 610 of the Criminal Code which prohibits corporate and labor union contributions to Federal campaigns.

Aside from these practical considerations, the Commission on several occasions has issued rulings or regulations contrary to the position currently advocated by the Republican National Committee.

In response to Advisory Opinion Request 1975-13, the Commission ruled on August 21 that "once an individual has become a candidate for the Presidency, all speeches made before substantial numbers of people are presumably for the purpose of enhancing his candidacy." The ruling was applied when a Democratic Presidential candidate spoke before a New York Chamber of Commerce, even though such an appearance would only remotely affect the Presidential primaries or the process of selecting delegates to the national party convention. Yet, the R.N.C. has asked the Commission to exempt Gerald Ford's travels and speeches before "substantial numbers of people", many of whom are the very same Republicans he must influence to win the party's nomination for President next year. Such a position would be entirely inconsistent with the ruling of August 21.

Mrs. Smith has contended these party activities are all part of President Ford's job of being President. She notes, "partisan political activity is a recognized and Federally codified facet of an incumbent President's ordinary business." Even if that were so, the Commission has issued a proposed regulation applying the limitations in the Federal Election Campaign Act, when private money beyond that appropriated by Congress is used to pay for ordinary business of a member of the House or Senate.

Under the proposed regulation, if a Senator pays the salary of a caseworker out of his own pocket, that is a campaign expenditure subject to the limits - even if the payment is made two years prior to the Senator's next election. How-



ever, the R.N.C. is suggesting that all during the Presidential primary period, an incumbent President can receive political funds from a political committee for travel too political for Treasury disbursement with no application of the Federal campaign laws whatsoever.

The two positions cannot be evenhandedly reconciled. Clearly, the law was drafted to apply equally to Congress and the Chief Executive alike. Congress did not anticipate that special exceptions would be carved out to aid any incumbent President.

The only difficult question presented by the R.N.C. letter is the retroactive effect of a Commission determination that R.N.C. travel expense payments are contributions subject to the contribution limits. Certainly, a good case can be made that such a ruling should be retroactive to July 8, 1975, the day of President Ford's announcement. However, the Commission has, in the past, made allowances where it has not resolved a question by way of public notice. Therefore, out of fairness the ruling should be retroactive only to August 21, when the FEC issued AO 1975-13 indicating that appearances by announced candidates before large groups would be presumed campaign-related.

Under no circumstances, should the ruling be retroactive to a date later than September 4. On that date, the Commission responded to a question concerning the President's travels to New Hampshire before the special general election. In that opinion, the FEC approved the following language contained in a letter sent by its General Counsel to the Wyman campaign and the Republican National Committee:

"The ability of the various party committees to assume various appropriate expenses, as outlined in this opinion of counsel, is therefore limited to the New Hampshire Senate elections. The ability of party committees to assume the campaign expenses of candidates other than in special general or general elections is limited by the provisions of 18 U.S.C. §608(b)(1) and (2) (the sections limiting contributions to \$1,000 and \$5,000) as appropriate."



This language constitutes clear and unambiguous notice to the R.N.C. that expense payments for Presidential travel are subject to the \$5,000 contribution limits, except in relation to a general election.

Hon. Thomas B. Curtis

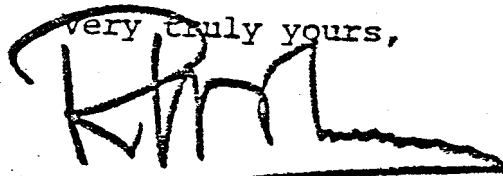
October 7, 1975

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Whatever the date for retroactivity, the Commission should require the President's campaign committee to repay the Republican National Committee for funds contributed in excess of the \$5,000 limit since that date. Moreover, the Commission should prohibit further payments in excess of the \$5,000 limit.

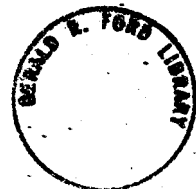
Since the R.N.C. expense payments are increasing each week as the President continues his campaign travels, it would be to everyone's advantage if this matter were resolved as soon as possible. Therefore, I hope you will give it your immediate attention. Thank you again for the opportunity to comment on this important question.

very truly yours,

A handwritten signature in dark ink, appearing to be 'RNT', with a long horizontal flourish extending to the right.

ROBERT N. THOMSON
Counsel

RNT:jc



THE WHITE HOUSE

WASHINGTON

October 16, 1975

*Copies
hand-
carried*

MEMORANDUM FOR: DON RUMSFELD
BOB HARTMANN
DICK CHENEY
JIM CONNOR
RON NESSEN

FROM:

PHIL BUCHEN

P.W.B.

SUBJECT:

PFC Comments on
RNC Expenditures

Attached is a draft letter from the PFC commenting on RNC expenditures in support of the President as head of the party.

I would appreciate any comments you might have by C.O.B. today in order that this letter can meet tomorrow's filing deadline.

Thank you.



DRAFT - 3
RPV - 10/16/75

Office of General Counsel,
Advisory Opinion Section
The Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: AOR 1975-72

Gentlemen:

The President Ford Committee hereby submits the following comments in support of the position taken by the Chairman of the Republican National Committee, Mary Louise Smith, in her September 15 letter regarding the historical role of the President of the United States in his capacity as head of his national party. It is our understanding that the Democratic Senatorial Campaign Committee ("DSCC") has submitted comments alleging violation of certain provisions of the Federal Election Campaign Act of 1971, as amended, (the "Act") by both the Republican National Committee ("RNC") and The President Ford Committee ("PFC"). In particular, both the RNC and the principal campaign committee for the President were recklessly charged by the DSCC with a knowing criminal violation of Section 608(b)(2) of Title 18, United States Code, regarding the payment by the RNC of Presidential travel expenses solely involving Republican Party political activities. Such assertions are without merit and lack any substantive legal or factual basis.

It is our position, as demonstrated below, that such payments by the President's national party are both proper and lawful. Moreover, such payments recognize the three traditional and important functions of any incumbent President. He is President, the leader of his national party and possibly a Presidential candidate.

First, it is clear that the limitation set forth in Section 608(b)(2) regarding contributions by a political committee to a federal candidate relate solely to payments:

" . . . made for the purpose of influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States;"

18 U.S.C. §591(e)(1) (Emphasis Added)

Similarly, the definition of "expenditure" in Title 18 excludes any payment from being charged against the candidate's primary expenditure limitation of Ten Million Dollars (\$10,000,000) unless it is in furtherance of one of the above cited purposes.

Moreover, the definition of expenditure also explicitly excludes "any communication by any person which is not made for the purpose of influencing the nomination for election, or election, of any person to Federal office". 18 U.S.C.

§591(f)(4)(F) As set forth in greater detail in Mrs.

Smith's letter, the RNC has not and will not assume the



expenses of Presidential travel in connection with either the candidacy of the President himself or with the candidacy of any other individual. In the latter circumstances, of course, the appropriate contribution and expenditure provisions of the Act would apply on an allocable basis.

Second, the strength of the RNC position is underscored by the legislative history of the Act itself. One of the important goals of the legislative reform sought by the 1974 amendments was to strengthen the national, state and local party structures and their impact upon the political process while, at the same time, stemming the unchecked flow of undisclosed private funds from being covertly channeled into a federal candidate's coffers.

In the Senate Report on the 1974 Amendments, it was stated in a paragraph entitled "Strengthening Political Parties" that the Senate Committee "agrees that a vigorous party system is vital to American politics and has given this matter careful study." The Committee stated that "the parties will play an increased role in building strong coalitions of voters and in keeping candidates responsible to the electorate through the party reorganization". Finally, they noted



"[P]arties [such as the RNC] will continue to perform crucial functions in the election apart from fundraising, such as registration and voter turnout campaigns, providing speakers, organizing volunteer workers and publicizing issues. Indeed, the combination of substantial public financing with limits on private gifts to candidates will release large sums presently committed to individual campaigns and make them available for donation to the parties, themselves. As a result, our financially hard-pressed parties will have increased resources not only to conduct party-wide election efforts, but also to sustain important party operations in between elections.

Senate Report 93-689 at 7-8 (Emphasis Added)

The traditional and one of the most effective methods by which a national party obtains funds to support such activities and strengthen its political base is by inviting interested persons to fundraising events at which party leaders, and in particular, an incumbent President, speak on issues of concern to the Party. To date, it is my understanding that such activities on behalf of the RNC by President Ford have raised over \$2,250,000 for his Party. The pragmatic effect of any blanket rule denying the RNC the party services of its chief spokesman would be to dramatically undercut and weaken that which the Act sought to promote and strengthen.

Thus, the RNC should be permitted to pay for expenses incurred by the President and his aides for party promotional activity since such activities are undertaken at the singular request of the RNC for its own purposes and benefit. In fact, the PFC has not been involved in any efforts to initiate

and/or coordinate any of the President's recent trips on behalf of the RNC. Such invitations and acceptances are independent judgmental determinations made by the RNC and White House in connection with party matters and for party purposes. Moreover, such activities are totally unrelated to the PFC campaign efforts which are directed towards the raising of money and the scheduling of activities for the purpose of influencing the nomination of the President for a full term.

Third, the test for determining whether or not a contribution or expense is a campaign expense related to a federal candidate's election and therefore chargeable to the aggregate limitations set forth in the Act, is one of intent and purpose. Although, as Mrs. Smith noted with regard to the differing roles of the President, such distinctions are sometimes subtle, they are nonetheless real and subject to dispassionate analysis. No inflexible rule should be issued by the Commission which would obviate and eliminate partisan but non-candidate related activities. Instead, it is our considered opinion that a

clear distinction exists between the activities of a President in his official capacity, the activities of a President in his party leader capacity and, finally, the activities of a President as a candidate for nomination. Further, reason dictates that any such determination by the Commission in this regard must be made on a case by case basis.

It was recognized in the Opinion of Counsel issued to the campaign manager of the Wyman-for-Senator Committee, that the fact that there will always be the possibility or even likelihood of "some carryover effect" or other incidental benefit to the President in connection with his appearance in New Hampshire on behalf of that candidate is immaterial when the timing of such a visit would have no significant demonstrable or measurable effect on the 1976 Presidential election, nominating convention or New Hampshire primary election. Although that opinion was restricted to a particular set of circumstances and was not deemed necessarily applicable to other campaign activity engaged in by a Presidential candidate, the logical conclusion is that a similar approach and analysis must be taken toward non-campaign activity by a federal candidate. In fact, there are no applicable contribution or expenditure limitations for ongoing party business and activities which are not for the purpose of influencing the election of a federal candidate.

The distinction between official acts by a federal office holder and candidate related activities is reflected


in both the legislative history of the Act (see, e.g. H.R. 93-1279 at 150) and in the initial Task Force draft regarding Allocation of Expenditures. Moreover, an equally real and viable distinction exists between candidate related activities and party related activities, particularly during the primary period prior to the nomination at the national parties' annual conventions.

Fourth, in order to determine whether or not partisan political activity is directed toward party activity or an individual's own candidacy, we would respectfully suggest that the following approach be considered in connection with the Commission's Advisory Opinion in this matter and as a basis for any proposed regulation in this area. The cost of promotional or other partisan activities on behalf of a national, state or local party by a candidate for federal office, whether or not a holder of public office, shall not be attributable as a campaign expenditure by such candidate if the activity is (1) at the sole invitation of such party, (2) for a recognized and legitimate purpose on behalf of the party and not for the purpose of directly raising funds for such candidate or for the purpose of influencing his election, provided that, notwithstanding the above, the costs of any such activities by a candidate who has registered and qualified as a candidate or been placed on the ballot in the

state in which such activity is held, shall be deemed an expenditure from the date of registration or placement on the ballot, in any event, at any time such activities are undertaken in that state within forty-five (45) days prior to the date of the respective state presidential primary.

This approach recognizes the importance and value of party promotional activity by federal candidates, while at the same time providing a pragmatic time frame within which any such activity would be deemed candidate related. In addition, of course, any alleged party activity which is demonstrated to be for the purpose of influencing the candidate's own election would be appropriately allocated and charged against the Act's contribution and expenditure limitations. This is in accordance with the approach recently discussed by the Commission regarding "unearmarked" contributions to the national committee of such a candidate.

Accordingly, in the foregoing discussion we have established that payment by the RNC of expenditures incurred by the President and his aides, when solely engaged in national, state or local political party promotional activities, are not subject to the Act's contribution and spending limits. Hence, the FEC should confirm in its Advisory Opinion that it is legally permissible for the RNC to continue to make such expenditures. Moreover, in any event, the Commission should also rule that the effect of an Advisory Opinion in this matter must be prospective only.



In the first place, the statutory language of Section 437(f) of Title 2, United States Code, which authorizes the FEC to render Advisory Opinions clearly reflects the fact that such Advisory Opinions look only to future acts, and not past acts. Section 437(f) states, in pertinent part, that:

"(a) Upon written request to the Commission . . . the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity . . . would constitute a violation . . ."

(Empahsis Added)

The words "would constitute" do not encompass acts that occurred in the past. As the Comptroller General has frequently ruled that the question of retroactivity is strictly a function of the interpretation of the relevant statute in question, the conclusion that all Advisory Opinions must be solely prospective in application is compelling (See, e.g. 49 Comp. Gen. 505 (1970), 48 Comp. Gen. 477 (1969), 48 Comp. Gen. 15 (1968) and 47 Comp. Gen. 386 (1968))

Moreover, even if, arguendo, Advisory Opinions are not limited to matters of prospective application only in all matters subject to such rulings, the Commission still has full discretion to limit its opinions to matters in the future in appropriate cases. The United States Supreme Court, in Chenery v. SEC, 332 U.S. 194 (1947), held that an agency of the federal government may, in its discretion,

give a ruling prospective effect only. The Court stated that the agency, in exercising this discretion, should follow a balancing test, which involves weighing "the mischief of producing the result which is contrary to a statutory design or to legal and equitable principles" against "the ill effect of the retroactive application of a new standard . . ." (332 U.S. at 203).

The foregoing test is similar to the criteria followed by the United States Supreme Court on the question of whether a particular judicial holding should be given retroactive application. Recently the Court stated that the following matters should be considered in this regard:

""(a) The purpose to be served by the new standards, (b) the extent of the reliance by law enforcement authorities on the old standards, and (c) the effect on the administration of justice of a retroactive application of the new standards"" Gosa v. Mayden, 413 U.S. 655, 679 (1973), quoting, 388 U.S. at 297.

At issue before the Commission is the appropriateness of the application of the Act's contribution and expenditure limitations set forth in 18 U.S.C. 608 to a Presidential candidate's travel for party purposes. Title 18, of course, is a criminal statute and



provides for extensive criminal penalties including imprisonment and fines. As with all criminal statutes, a principal feature of that section is that a violation cannot occur unless it is a "knowing violation". In this respect, subsection (h) of Section 608 states as follows:

"(h) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly made any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section."

(Emphasis Added)

Any person found violating any provision of this section shall be fined not more than \$25,000 or imprisoned not more than 1 year, or both (18 U.S.C. §608(i)).

The enforcement powers of the Commission set forth in 24 U.S.C. §437g also make it clear that the Commission may not order repayment of any such past payments in any event for a violation of Section 608. Appropriate apparent violations of Section 608 are to be referred to the appropriate law enforcement authorities. In the present instance any such referral would be ludicrous. Accordingly, the Commission would be committing an abuse of discretion if it should attempt

to retroactively apply any new standard against The President Ford Committee or the RNC in this instance.

The President Ford Committee and the RNC have at all times acted in good faith in accordance with their understanding of the law. The RNC expenditures in question have been filed quarterly with the FEC, the Clerk of the House of Representatives and the Secretary of the United States Senate and it would be unfair and an unconstitutional denial of due process to apply any new standard before such time as the PFC or RNC might be said to have been on notice that their position was not in accordance with the FEC's view of the law. Thus, it is impossible to conclude that such committees were ever on such notice as would support a conclusion that there had been a "knowing violation" of the law. Indeed, the Commission has still not in any way ruled upon the question now before it and any Advisory Opinion must be applied prospectively only in this matter.

Finally, I would like to review certain additional pragmatic considerations for the Commission's consideration. Allegations that the recognition of the role of political parties in the maintenance and development of a viable political structure in the United States would work an unfair burden upon non-incumbents and allow unlimited corporate and labor organization spending for federal candidates through the general treasuries of state party committees are both misleading and fallacious. As a general policy matter, as well as pragmatic political practice, the 1974 Amendments

were not intended (nor should they have been) to provide a perfect cosmic balance on which both incumbents and non-incumbents must be evenly weighed in either. Again, as noted in Mrs. Smith's letter, the question presented does not revolve solely upon the President's role as party leader but involves any incumbent federal officeholder. The fact that such party leaders are generally incumbent officeholders is merely a reflection of the public's real life interest in recognized elected leaders and public figures. Non-incumbents always perforce are faced with the traditional obstacle and challenge of name recognition and acceptance. The plain fact that many incumbents have lost to earnest new challengers even prior to the federal election campaign laws establishes that the advantages of incumbency are not all compelling. Further, the burdens of incumbency, including the obligation to speak and act responsibly toward his constituency and to represent their best interests in the harsh world of decision as opposed to the speculation and mere promise of the non-incumbent, are all too quickly and easily forgotten by those who would seek to mystically equalize the political system to their own advantage.

Similarly, the alarm sounded regarding corporate and labor organization spending is false and a sham. The Commission has already indicated that state parties will have to maintain separate, segregated funds regarding any support for federal candidates, which funds must exclude monies from corporations and unions that

may be accepted by them under State law for state and local candidates and activities. Full disclosure and exacting reporting requirements of such funds will avoid any such anticipated and feigned abuse. In addition, as in all of these matters, the watchful eye of the press as well as opposing candidates will expose and question any deceitful artifice or device. Accordingly, only legitimate state party business activities would be financed from the general treasuries of such state parties. Section 610 of Title 18, United States Code, would properly have no application to such legitimate state activities.

Reliance upon Advisory Opinion Request 1975-13 and the proposed House Account regulation is again misplaced. That Advisory Opinion solely decided that the payment of a Presidential Candidate's travel expenses from corporate funds was illegal. It in no way addressed the question whether the President may engage in political activities unrelated to his candidacy. The distinction in the House account proposal is self-apparent. In that situation, money is being contributed directly to the candidate to support activities that can have no substantive purpose other than to assist the candidate in influencing his constituency and, of greater

importance, such contributions certainly do not serve to advance a stated major purpose of the Act - the strengthening of political parties. Moreover, in its second proposed version of the House Account regulation it was again recognized by the Commission that, even with regard to such direct contributions to Congressmen, the application of the Act's limitations would apply only to a foreshortened period prior to an announced candidate's election.

In conclusion, we appreciate the opportunity afforded the PFC to comment on the above-referenced Advisory Opinion Request and we trust that these comments may prove useful in assisting the Commission in arriving at its determination in this matter.

Sincerely,

Robert P. Visser
General Counsel