



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 29, 1984

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1984-50

The Honorable Geraldine A. Ferraro  
United States House of Representatives  
Washington, D.C. 20515

Dear Representative Ferraro:

This responds to your letter of September 12, 1984, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposed donation of caricature cards and caricature posters by your House campaign committee to the Democratic National Committee's 1984 Victory Fund.

You state that your House campaign committee, Geraldine A. Ferraro for Congress 1984 ("the Committee"), wishes to contribute 500 caricature cards, valued at \$95.09, and 12 caricature posters, valued at \$13.80, to the Democratic National Committee's 1984 Victory Fund ("the Victory Fund").<sup>1</sup> You ask whether such a contribution is permissible, and if so, what the proper reporting procedures are for both the Committee and the Victory Fund.

Under the Act and Commission regulations, a candidate's excess campaign funds may be transferred without limitation to any national, State, or local committee of any political party. 2 U.S.C. 439a and 11 CFR 113.2(c). "Excess campaign funds" are defined as amounts received by a candidate as contributions which he or she determines are in excess of any amount necessary to defray his or her campaign expenditures. 11 CFR 113.1(e). The Commission has stated previously that the term "contributions" as used in this definition includes anything of value and is not limited solely to cash. Advisory Opinion 1981-11, copy enclosed. Accordingly, the Commission concludes that the caricature cards and posters, viewed as campaign assets, would qualify as excess campaign funds once you properly determine that they are part of

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<sup>1</sup> You have not explained the underlying basis of these valuations; nor have you requested an opinion with respect to their validity for purposes of the Act and regulations. Accordingly, the Commission does not reach the valuation issue here, and this opinion should not be read as expressing or implying any views on that issue. See 11 CFR 100.7(a)(1)(iii), 104.13. The conclusion of this opinion with respect to application of 2 U.S.C. 439a in this situation does, of course, mean that valuation has no significance for purposes of the contribution limits in 2 U.S.C. 441a.

Committee assets that are no longer needed to defray Congressional campaign expenses.<sup>2</sup> Therefore, they may be transferred without limitation from the Committee to the Victory Fund.

With respect to the reporting question, assuming that the original payment for these caricature cards and caricature posters was reported as an operating expenditure on line 17 of the Detailed Summary Page of Form 3, a negative entry in the same amount (presumably \$95.09 + \$13.80) should be made on line 17 of the report for the period during which this new transaction occurs. An entry should also be made on line 21, "Other Disbursements," and the disbursement should be itemized on Schedule B. The purpose of the disbursement should be described "unlimited in-kind contribution from excess campaign funds." See 11 CFR 104.3(b)(4).

The Democratic National Committee should report the receipt of the contribution on line 11(c) ("contributions from other political committees") of its Detailed Summary Page, and should itemize it on Schedule A and label it as an in-kind contribution. The DNC should also report the transaction as a disbursement on line 19 (operating expenditures), and should itemize it on Schedule B, with a notation that the amount represents the receipt of an in-kind contribution from the Ferraro committee.

The Commission expresses no opinion as to any possible use of the caricature cards and caricature posters by the Democratic National Committee's 1984 Victory Fund since the Victory Fund has not joined in making this request. The Commission also expresses no opinion regarding the possible application of House rules to the proposed activity, since those rules are outside the Commission's jurisdiction.

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

Sincerely yours,

(signed)

Lee Ann Elliott  
Chairman for the  
Federal Election Commission

Enclosure (AO 1981-11)

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<sup>2</sup> Commission records indicate that Geraldine A. Ferraro for Congress 1984, your principal campaign committee for your House election, filed a Statement of Organization on May 1, 1984. The Commission notes that you became the Democratic nominee for Vice President of the United States on July 19, 1984. The Commission assumes, therefore, that all the Committee's cash-on-hand and campaign assets as of July 19, 1984, could be viewed as excess campaign funds. (We note that the Committee's July 15 Quarterly Report of Receipts and Disbursements discloses a cash-on-hand balance of \$137,935.12, and indicates that there are no debts and obligations owed by the Committee.) The Commission further assumes from your request that the caricature cards and caricature posters were part of the Committee's assets as of July 19, 1984.