FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 24, 1985

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1985-30

Honorable Marjorie S. Holt
Friends of Marjorie Holt Committee
P.O. Box 1827
Annapolis, MD 21404

Dear Representative Holt:

This responds to your letter of September 11, 1985, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the possible uses of your campaign funds.

You state that you announced on July 31, 1985, that you will be retiring as a Member of Congress at the end of your present term. On August 7, 1985, the treasurer of your principal campaign committee amended its Statement of Organization to redesignate it as a nonconnected multicandidate political committee. No other changes regarding your committee were made in this amendment. Reports filed by your principal campaign committee for the period ending June 30, 1985, showed a cash-on-hand balance of $99,005.28 with no debts owed to or by the committee. This balance included $7,556.80 in contributions received between January 1 and June 30, 1985.[1]

You ask (1) what are the guidelines on your being able to serve as a director of the multicandidate political committee and to receive compensation and (2) how may funds in the committee's account be used. You also ask whether the committee can set up other committees for charities[2] and whether additional committees may be set up and how they may be used or whether the multicandidate committee can accomplish these objectives.

The Commission notes that it has previously stated that a candidate's principal campaign committee may convert and qualify as a multicandidate political committee once it meets the requirements for such status.[3] Advisory Opinion 1978-86. The Commission has also expressed the view that the conversion of a candidate's principal campaign committee to a multicandidate

political committee was a permissible use of the principal campaign committee's contributed funds that are deemed to be in excess of any amounts necessary to defray the candidate's expenditures under 2 U.S.C. 439a. Advisory Opinion 1983-14; see 11 CFR 113.1(e). Nevertheless, the Commission has concluded that while a principal campaign committee's contributed funds may be transferred without limit to a tax-exempt organization, these funds could not then be used to pay compensation to the former candidate as an officer of the tax-exempt organization because of the Act's prohibition on the conversion of such funds to personal use under 2 U.S.C. 439a and 11 CFR 113.2(d). Advisory Opinion 1983-27.[4]

In your situation, however, the Commission need not decide whether a similar prohibition applies to the use of contributed funds when a principal campaign committee converts to a multicandidate political committee. As a Representative in Congress on January 8, 1980, you are exempted from the prohibition regarding the conversion of contributed funds to personal use of 2 U.S.C. 439a and 11 CFR 113.2(d). Accordingly, you may serve as the director of your multicandidate political committee and receive compensation as director.[5]

The Act and Commission regulations also do not limit or prohibit disbursements by a political committee to a charity. See 2 U.S.C. 441a(a)(2) and 11 CFR 110.2. They furthermore specifically permit the transfer without limit of contributed funds to organizations described in 26 U.S.C. 170(c). See 2 U.S.C. 439a and 11 CFR 113.2(b). Accordingly, for similar reasons, the Commission concludes that you may use these contributed funds for disbursements to charities without the need of setting up additional committees.[6]

The Commission does not address other uses of these contributed funds or the further setting up of additional committees because you have not presented any specific transaction or activity in this regard. See 11 CFR 112.1(b) and (c). The Commission does note, however, that it has previously stated that once a principal campaign committee converts to a multicandidate political committee, it is subject to the limitations of 2 U.S.C. 441a(a)(2).[7] Advisory Opinions 1983-14 and 1978-86; see also Advisory Opinion 1979-82. The Act and Commission regulations also prohibit your multicandidate political committee from being designated as an authorized committee of a candidate. 2 U.S.C. 432(e)(3) and 11 CFR 102.13(c).

The Commission expresses no opinion regarding the possible application of House rules to these described activities, nor any tax ramifications, since those questions are outside its jurisdiction.

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

Sincerely yours,

(signed)

John Warren McGarry
Chairman for the Federal Election Commission

Enclosures (AOs 1983-27, 1983-14, 1982-32, 1980-40, 1979-82, 1979-46, and 1978-86)

1. You may have met the requirements for candidate status prior to the conversion of your principal campaign committee. See 2 U.S.C. 431(2) and 11 CFR 100.3. Nevertheless, by the amending of your principal campaign committee's Statement of Organization to convert it to a multicandidate political committee, you are no longer considered a candidate for purposes of the Act and Commission regulations. For this reason, the provisions of 2 U.S.C. 432(e)(4) regarding the name of the committee are also not applicable. Cf., Advisory Opinion 1982-32.

2. The Commission assumes that your reference to "charities" means those organizations described under 26 U.S.C. 170(c).

3. In meeting the requirements of 2 U.S.C. 441a(a)(4), your multicandidate political committee may avail itself of the length of existence of your principal campaign committee, the number of contributions made by such committee, and the number of contributions made to such committee, since its registration with the Commission. See Advisory Opinions 1982-32 and 1980-40.

4. This advisory opinion stated that the personal use prohibition would not apply to the reimbursement of the former candidate's ordinary and necessary expenses as an officer of the tax-exempt organization. The opinion also stated that the prohibition only applied to the contributed funds transferred to the tax-exempt organization until such funds had been expended by that organization.

5. Such payments are reportable by your multicandidate political committee as operating expenditures. See 11 CFR 104.3(b)(1)(i) and (b)(3)(i). Also, the filing dates for your committee's reports are now covered by 11 CFR 104.5(c) rather than 11 CFR 104.5(a).

6. Such payments are reportable as other disbursements. See 11 CFR 104.3(b)(1)(ix) and (b)(3)(ix).

7. The Commission notes that once your committee qualifies as a multicandidate political committee, persons and other multicandidate political committees may make contributions to it that in the aggregate do not exceed $5,000 in any calendar year. 2 U.S.C. 441a(a)(1)(c) and (a)(2)(C). Thus, contributions made to your committee in 1985 prior to its conversion should be aggregated with contributions made to your committee in 1985 after conversion for purposes of the Act's contribution limitations. Cf., Advisory Opinion 1979-46.