



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 20, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-131

Larry D. Sharp
Bergson, Borkland, Margolis & Adler
11 Dupont Circle, N.W.
Washington, D.C. 20036

Dear Mr. Sharp:

This is in response to your letter of November 3, 1980, requesting an advisory opinion on behalf of John B. Anderson, the National Unity Campaign for John Anderson, and the National Unity Campaign 441a(d) Committee concerning the status of the latter entities under the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations.

According to your request, John Anderson was a candidate for the presidency in the 1980 general election. John Anderson's principal campaign committee is the National Unity Campaign for John Anderson ("National Unity Campaign") which has offices throughout the country. You explain that John Anderson elected to run "on a national unity platform designed to attract support from members of various political parties and from many schools of American political thought." This platform, which reflects views by a wide variety of people, was broadly disseminated and the National Unity Campaign has provided speakers throughout the country to publicize what it considered issues of importance to the Anderson campaign and the country.

You state that the National Unity Campaign 441a(d) Committee ("the Committee") is a registered political committee organized to support the presidential candidacy of John Anderson. The Committee has not been expressly authorized by John Anderson to use his name or to raise or spend funds on his behalf. The Committee is not responsible for the day-to-day operation of the National Unity Campaign and is not referred to in any of the National Unity Campaign's bylaws. The Committee supports no other candidates and has no present intention to support other candidates. You further explain that both the National Unity Campaign and the Committee thus far have devoted their efforts solely to the campaign of John Anderson for President and Patrick Lucey for Vice-President. Neither has nominated candidates for other Federal offices and neither has supported voter registration and get-out-the-vote drives, provided speakers, organized

volunteer workers, or publicized issues of importance, except in connection with the election of John Anderson and Patrick Lucey to President and Vice President in 1980.

You state that at the present time John Anderson, the National Unity Campaign, and the Committee have made no decision to terminate their activities at any specific time in the future. Mr. Anderson's presidential campaign may, however, require private contributions in the post-election period to retire debts and "to complete activities undertaken in connection with the campaign." If a decision is eventually made to continue the National Unity Campaign effort beyond the election of 1980, you say that funds would be required to support the "continuing program." Your request does not describe, either generally or specifically, the nature of this hypothetical future "program."

The National Unity Campaign intends to continue fundraising. The Committee wishes and intends to solicit and receive individual contributions of up to \$20,000 pursuant to 2 U.S.C. 441a(a)(1)(B), and to expend such contributions up to a maximum of \$4.7 million in coordination with the National Unity Campaign. These expenditures, you say, would be made in connection with the 1980 presidential election pursuant to 2 U.S.C. 441a(d).

You explain that the National Unity Campaign has committed itself to coordinate the expenditure of "441a(d)" funds only with the Committee. Contributors to the Committee will have no voice in and will not be informed of the manner in which their contributions are spent.

Given this factual background you ask the following questions:

(1) Does either the National Unity Campaign for John Anderson or the National Unity Campaign 441a(d) Committee qualify under 2 U.S.C. 441a(a)(1)(B) for the contribution limitations applicable to ". . . the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate?"

(2) Does either the National Unity Campaign for John Anderson or the National Unity Campaign 441a(d) Committee qualify under 2 U.S.C. 441a(d) for the expenditure limitations applicable to the National Committee of a political party?"

The Commission concludes that on the basis of the facts presented in the request neither the National Unity Campaign for John Anderson or the National Unity Campaign 441a(d) Committee qualifies for the contribution limitation set out in 2 U.S.C. 441a(a)(1)(B); nor does either qualify to make expenditures under 2 U.S.C. 441a(d) as a national committee of a political party.

2 U.S.C. 441a(a)(1)(B) provides that "no person shall make contributions to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which in the aggregate, exceed \$20,000." Section 110.1(b)(2) of the Commission's regulations which explains 441a(a)(1) states that "for purposes of this section," political committees established and maintained by a national political party "means (i) the national committee; (ii) the House campaign committee; and (iii)

the Senate campaign committee. Each may receive up to the \$20,000 limitation from a contributor." Hence, to qualify for the 441a(a)(1)(3) ceiling a committee must be either the national committee or the House or Senate campaign committee of a political party.

It is obvious from the request which states that these committees have devoted their efforts solely to the campaign of John Anderson for President that neither the National Unity Campaign nor the Committee is either a House or Senate campaign committee. Thus the issue is whether either the National Unity Campaign or the Committee is a national committee.

The Act and Commission regulations define "national committee" as "the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission," 2 U.S.C. 431(14) and 11 CFR 100.13. In a number of previous advisory opinions the Commission has, by application, explained the definitional criteria used to determine whether or not an organization qualifies as a "national committee." Those opinions required that beyond the mere creation of a political party by adoption of bylaws, an organization must demonstrate that it operates at the national level by nominating candidates for various Federal offices in numerous states; by engaging in such activities on an ongoing basis, rather than with respect to a particular election, as supporting voter registration and get-out-the-vote drives, providing speakers, organizing volunteer workers; and by publicizing issues of importance to the party and its adherents throughout the United States. Other indicia include holding a national convention and the establishment of State affiliates of the national political party. See Advisory Opinions 1980-96, 1980-3, 1978-58, 1976-95, 1975-129. Copies enclosed.

The facts which you present indicate that, at least at this time, neither the National Unity Campaign nor the Committee has demonstrated that its activity on a national level is such that it may be regarded as a national committee under the Act. Rather, according to your requests, both the National Unity Campaign and the Committee have only supported John Anderson's campaign for President and that of his vice presidential running mate, Patrick Lucey. Your request clearly states that all efforts of any type were solely in connection with the presidential campaign of John Anderson. As such both committees are regarded as single candidate committees. 11 CFR 100.5(e)(1) and (2), also see Advisory-opinion 1978-58. Regarding the Committee, you have stated that it is not responsible for daily activity of the National Unity Campaign, nor is it referred to in any of the National Unity Campaign's by-laws. Rather, the request indicates that these two committees have merely agreed at this time to coordinate efforts on behalf of the 1980 Presidential campaign of John Anderson. Lastly, the request by its silence with respect to Committee activities other than those related to the 1980 Presidential campaign, precludes the Commission from reaching a different conclusion.

Since neither the National Unity Campaign nor the Committee qualifies as a "national committee" and is not either a House or Senate campaign committee of a political party, 2 U.S.C. 441a(a)(1)(B) is not applicable to either committee. Since it has been determined that neither is a "national committee," your second question is answered in the negative. Neither the National Unity Campaign for John Anderson nor the National Unity Campaign 441a(d) Committee

qualify for the expenditure limitations applicable to the national committee of a political party as set forth in 2 U.S.C. 441a(d). *

In light of this conclusion, the Commission considers it unnecessary to express an opinion as to whether or not either the National Unity Campaign for John Anderson or the National Unity Campaign 441a(d) Committee is a political party for purposes of the Act. See Advisory Opinion 1980-96.

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

Sincerely yours,

(signed)

Max L. Friedersdorf
Chairman for the
Federal Election Commission

Enclosures (AOs 1980-96, 1980-3, 1978-58, 1976-95, 1975-129)

* 2 U.S.C. 441a(d)(2) states in part:

The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e) of this section). Emphasis added.