



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

January 29, 1982

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-51

William C. Oldaker  
Attorney at Law  
1050 17th Street, N.W.  
Washington, D.C. 20036

Dear Mr. Oldaker:

This refers to your letter of October 20, 1981, requesting an advisory opinion on behalf of the Metzenbaum for Senate Committee ("the Committee") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to acceptance by the Committee of volunteer services donated by an individual artist who is a foreign national.

Your letter indicates that the Committee contemplates obtaining a donation of volunteer services from an artist who is a foreign national. The artist will create for the Committee an original work of art that will be used for fundraising purposes by the Committee. You explain that the artist will create for the Committee "an original work of art by handpainting a number of gouaches which are then reproduced in limited editions as a unique Work of art by a unique process by persons working under the artist's supervision." The artist proposes to allow the Committee to produce a limited edition from the original works of art (gouaches) created him, with the Committee to pay all costs of production.

The first question you ask is whether an individual who is a foreign national, according to the definition in 2 U.S.C. 441e, may volunteer his services to the Committee to the same extent as would be permitted under the volunteer services exception in 2 U.S.C. 431(8)(B)(i). As you know, 441e prohibits any person who is a foreign national from making "any contribution of money or other thing of value" in connection with any election to any political office. It is also unlawful for any person to solicit, accept, or receive any prohibited contribution from a foreign national. The current prohibition on contributions by foreign nationals had its origin in the Foreign Agents Registration Act Amendments of 1966. Pub. L. No. 89-486, 8, 80 Stat. 244 (1966). At that time the prohibition applied to "any contribution of money or other thing of value" by an agent of a foreign principal in connection with any primary or other election to any

political office. 18 U.S.C. 613 (1970). The scope of the current statute, 2 U.S.C. 441e, clearly reaches beyond elections for Federal office, and the term contribution as used here expressly includes "money or other thing of value." Compare 2 U.S.C. 441a. Accordingly, the Commission concludes that a foreign national artist would be prohibited by 2 U.S.C. 441e from donating his uncompensated volunteer services to the Committee to create an original work of art for the Committee's use in fundraising.

The second question raised in your request is whether the contribution exception for uncompensated volunteer services provided by an individual to a candidate or political committee would apply in the specific situation you describe. This question is not reached since the Commission has concluded in responding to your first question that the foreign, national artist may not donate his volunteer services to the Committee for the purposes described in your request.

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,

(signed)

Frank P. Reiche  
Chairman for the  
Federal Election Commission