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FEDERAL ELECTION COMMISSION
Washington, DC 20463

Nov 30 2 59 PM '00

AGENDA ITEM
For Meeting of: 12-07-00

November 30, 2000

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Lawrence M. Noble
General Counsel

N. Bradley Litchfield
Associate General Counsel

Michael G. Marinelli
Staff Attorney

Subject: Draft AO 2000-34

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for December 7, 2000.

Attachment

1 ADVISORY OPINION 2000-34

2
3 Brett G. Kappel
4 Powell, Goldstein, Frazer and Murphy LLP
5 1001 Pennsylvania Avenue, N.W.
6 Washington, DC 20004

DRAFT

7
8 Dear Mr. Kappel

9
10 This refers to your letter dated October 25, 2000, which requests an advisory
11 opinion concerning the application of the Federal Election Campaign Act of 1971, as
12 amended ("the Act"), and Commission regulations to selection of a name for SAPPI Fine
13 Paper North America/S.D. Warren Company Political Action Committee ("SAPPI-
14 PAC").

15 You state that S.D. Warren Company ("the Company") is a leading manufacturer
16 of fine-quality, coated woodfree paper. The Company was acquired by SAPPI Limited
17 ("the parent company") in 1994, and continued to be known in the trade as S.D Warren
18 Company until 1998. In 1998, you explain, the parent company renamed all of its
19 subsidiaries to include the SAPPI name. You state that S.D. Warren Company and its
20 subsidiaries filed the appropriate trade name applications with the secretary of state in
21 several States (e.g., Missouri, Maryland, Minnesota, Pennsylvania, Texas, New
22 Hampshire, and Illinois) and was granted authorization to use the trade name "SAPPI
23 Fine Paper North America." Copies of the trade name application for Pennsylvania was
24 included in the request. In addition, SAPPI has filed a trademark application with the
25 U.S. Patent and Trademark Office for use of the "SAPPI" name.

26 You explain that the parent company intends to organize SAPPI PAC as a
27 separate segregated fund pursuant to 2 U.S.C. §441b(b)(2)(C). The connected

1 organization of SAPPI PAC will be S.D. Warren Company.¹ You request the
2 Commission to confirm that the Company may use "SAPPI Fine Paper North
3 America/S.D. Warren Company Political Action Committee" as its official name, and use
4 the acronym SAPPI PAC in its common use, such as on checks and letterhead.

5 Under the Act and Commission regulations, the name of any separate segregated
6 fund must include the full name of its connected organization. 2 U.S.C. §432(e)(5); 11
7 CFR 102.14(c). A fund established by a corporation which has a number of subsidiaries
8 need not include the name of each subsidiary in its name. Similarly, a separate segregated
9 fund established by a subsidiary need not include, in its name, the name of its parent or
10 another subsidiary of its parent. The regulations permit the use of a clearly recognized
11 abbreviation or acronym provided that the separate segregated fund uses both the
12 abbreviation (or acronym) and the full official name in its Statement of Organization, in
13 all reports filed by the fund, and in all disclaimer notices. 11 CFR 102.14(c); see also
14 Advisory Opinions 1999-20, 1993-7, and 1987-26.

15 The Commission concludes that the Company, with a slight modification, may
16 use its proposed official name as the name of its separate segregated fund. According to
17 information obtained from the corporate division of the Secretary of the Commonwealth
18 of Massachusetts, S.D. Warren Company is incorporated in Massachusetts, its principal
19 place of business, with the official name S.D. Warren Services Company.² Since this is

¹ You have informed Commission staff that no entity controlled by the parent company or its subsidiaries is currently the connected organization of any Federal political committee. An examination of statements or reports filed with the Commission confirms that there is no political committee currently registered using either SAPPI or S.D. Warren Company in its name.

² The documents provided in your request also identify S.D. Warren Company with S.D. Warren Services Company. Sappi Fine Paper North America is not part of the registered corporate name of S.D. Warren Services Company. According to the same official source, neither is there any entity registered in

1 the legal name of the connected organization, it must be included in its entirety in the
2 official name of the proposed separate segregated fund. Your proposed name for the
3 separate segregated fund should be modified to be "SAPPI Fine Paper North
4 America/S.D. Warren Services Company Political Action Committee."³

5 Regarding the Committee's use of the PAC acronym "SAPPI PAC," an
6 examination of the web site maintained by SAPPI Limited indicates use of the
7 abbreviation Sappi which, as your request documents, is also part of a company
8 trademark. In addition, the trade name for S.D Warren Services Company, "SAPPI Fine
9 Paper North America," is used in various well known financial reference sources.⁴ In this
10 situation, the appearance of this abbreviation in public materials supports the claim that
11 the acronym is clearly recognized within the meaning of 11 CFR 102.14(c). On this basis
12 the Commission concludes that the SAPPI Fine Paper North America/S.D. Warren
13 Services Company Political Action Committee may use SAPPI PAC as an abbreviation
14 for the Committee's official name.⁵

Massachusetts using the name "Sappi." The website for Sappi Limited (<http://www.sappi.com>) indicates that S.D. Warren Company is the sole Sappi Limited subsidiary in the United States.

³ In past opinions, the Commission has required that the name of the separate segregated fund include the full name of the connected organization, as indicated in the connected organization's articles or certificate of incorporation. See Advisory Opinions 1999-20, 1993-7, 1987-26 and 1980-23.

⁴ In past advisory opinions, when determining if an abbreviation used to identify the connected organization would give proper notice, the Commission has considered whether the abbreviation was used to identify the connected organization on a stock exchange or in a corporate directory like *Standard and Poor's Register*. See Advisory Opinion 1987-26. The reference directories using the abbreviation SAPPI include *Standard and Poor's Register*, *Dun & Bradstreet*, *Reference Book of American Business*, and the *D&B Million Dollar Directory*.

⁵ The Commission notes that the parent company of S.D. Warren Company, SAPPI Limited, is a South African corporation. This request has not posed any question regarding the making of contributions by a foreign national. The Act and Commission regulations prohibit a foreign national from making a contribution, directly or through any other person, or an expenditure in connection with an election to any political office. In addition, it is unlawful to solicit, accept, or receive a contribution from a foreign national. 2 U.S.C. §441e(a); 11 CFR 110.4(a)(1) and (2). Commission regulations, at 11 CFR 110.4(a)(1)-(4), implement the foreign national prohibition and explain its broad scope in barring foreign national participation in certain election-related activities. In Advisory Opinion 2000-17, the Commission provided

