

June 22, 1976

Mr. John J. Creedon  
General Counsel  
Metropolitan Life  
One Madison Avenue  
New York, New York 10010

AO 1975-118

Dear Mr. Creedon:

This refers further to your request for an advisory opinion as to the operation of a political action committee established under 2 U.S.C. §441b (formerly 18 U.S.C. §610), as amended by the Federal Election Campaign Act Amendments of 1976.

As you know, the Supreme Court during the period in which your request was pending, issued its opinion in Buckley v. Valeo, 424 U.S. 1, 96 S. Ct. 612 (decided January 30, 1976). The Court held that the Commission as then constituted lacked the power to issue advisory opinions. From the date of that decision until reconstitution of the Commission on May 21, 1976, no advisory opinions could be issued. We apologize for the unavoidable delay in responding to your request.

In addition to amending the cited provision, the 1976 Amendments also limited use of the advisory opinion procedure under 2 U.S.C. §437f. As a result of those changes, rules of general applicability must be initially proposed by the Commission as regulations and submitted to the Congress under 2 U.S.C. §436(c). Accordingly, the newly reconstituted Commission published proposed regulations in the Federal Register on May 26 and invited public comment.

A reprint of these proposed regulations is enclosed for your information; in particular, I call your attention to Parts 100, 110, 114, and 115, which are of direct relevance to your request. In addition, I am enclosing a publication recently prepared by the Commission which contains the language of 2 U.S.C. §§431-455 as amended May 11. Finally, I am

also enclosing a staff memorandum, discoverable under the Freedom of Information Act, which restates the statutory provisions of 2 U.S.C. §441b in the form of general rules of law. I hope you will find these materials helpful as you evaluate the impact of the 1976 Amendments on the establishment and operation of your political action committee.

The enclosed Federal Register publication should not be regarded as representing final Commission policy. The Commission held hearings on the proposed regulations June 7-11 and is currently in the process of evaluating the testimony as well as the numerous written comments received. Numerous changes have been proposed and many will doubtless be adopted. The final version of these regulations when approved by the Commission will be transmitted to the Congress for the prescribed review period of thirty legislative days. I will send you a copy of those materials soon after they are sent to the Congress.

In view of the changes described above, we consider it advisable to close our file on your request at this time. If you believe that an advisory opinion is still necessary when the Commission prescribes its regulations after the Congressional review period, you may, of course, request an opinion as to the application of the amended statute, or a regulation issued thereunder, to a specific factual situation involving your committee. See 2 U.S.C. §437f, as amended. Please contact Bradley Litchfield or Carolyn Feed of the Commission's legal staff (800/424-9530, toll free) if you desire further explanation of this action. Thank you for your patience and cooperation.

Sincerely yours,

John G. Murphy, Jr.  
General Counsel

Enclosures