



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

September 2, 1976

Re: AOR 1975-122

Terry F. Lenzner, Esquire  
Truitt, Fabrikant, Bucklin & Lenzner  
910 Seventeenth Street, NW  
Washington, DC 20006

Dear Mr. Lenzner:

We regret the delay in answering your inquiry, but, subsequent to the Supreme Court's decision in Buckley v. Valeo, 424 U.S. 1 (1976), the Commission was required to suspend the issuance of advisory opinions until May 21, the date of its reconstitution. Moreover, 2 U.S.C. §437f, as amended by the Federal Election Campaign Act Amendments of 1976, now requires the Commission to formulate its rules of general applicability by proposing formal regulations, rather than by the advisory opinion process. Proposed regulations were submitted to the Congress on August 3, 1976.

You ask whether the Council For a Livable World ("the Council"), a registered political committee, may incorporate for liability purposes only and continue to make contributions to candidates for Federal office without violating 2 U.S.C. §441b.

The Commission has recently given final approval to proposed regulations. Section 114.12(a) of those regulations is directly relevant to your question. That section states that "an organization may incorporate and not be subject to the provisions of this Part if the organization incorporates for liability purposes only, and if the organization is a political committee as defined §100." Under the circumstances described in your letter, and subject to the following, a contribution to a candidate to Federal office by the Council will not violate 2 U.S.C. §441b or the Commission's proposed regulations if the Council decides to incorporate.

Obviously, any contribution to or by the Council is subject to the requirements of the Federal Election Campaign Act of 1971, as amended ("the Act"), including the limits of 2 U.S.C. §441a and Part 110 of the Commission's proposed regulations. Furthermore, this conclusion is premised on the assumption that all receipts and disbursements relating to all the Council's varied activities will be regarded as though they were contributions

and expenditures under the Act. The exemption referred to in §114.12(a) is available only where the organization is, in its entirety, a political committee.” 2 U.S.C. §431(d). The Council, may, of course, incorporate and conduct its political committee function as a separate segregated fund under 2 U.S.C. §441b and Part 114 of the proposed regulations.

Your second inquiry is whether, if the Council incorporates, it would be required to qualify anew as a multicandidate committee to which the higher contribution limits of 2 U.S.C. §441a are applicable. In the Commission’s opinion, the six-month registration requirement set out in 2 U.S.C. §441a(a)(4) and §100.14(a)(3) of the proposed regulations relates to the time that a political committee initially registers with the Commission. The incorporation of the political committee would not require requalification and a new six-month period for attaining status as a multicandidate committee. The Council’s Statement of Organization should, however, be amended pursuant to §102.3 of the Commission’s proposed regulations to reflect its newly incorporated status.

This response relates to your opinion request but may be regarded as informational only and not as an advisory opinion since it is based in part on proposed regulations of the Commission which must be submitted to Congress. The proposed regulations may be prescribed in final form by the Commission only if not disapproved either by the House or the Senate within thirty legislative days from the date received by them. 2 U.S.C. §438(c). As mentioned previously, the proposed regulations were submitted to the Congress on August 3, 1976. It is the Commission’s view that no enforcement or compliance action should be initiated in this matter if the actions of the committee you represent conform to the conclusions and views stated in this letter.

Sincerely yours,

(signed)  
Vernon W. Thomson  
Chairman for the  
Federal Election Commission

Enclosure