



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

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I/C #443,

I/C #452, :

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James E. Mitchell
R.F.D. 1
Augusta, Maine 04330

Dear Mr. Mitchell:

We have your letter of August 4, 1976, stating that you still need answers to several of the questions raised in your letters of December 17 and 26, 1975, and February 27, 1976.

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 after 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. The proposed regulations were submitted to Congress on August 3, 1976.

Your letter of February 27, 1976, asks whether the use of stationery with a corporate letterhead, as well as corporate facilities and personnel to prepare and send fundraising letters on behalf of a Federal candidate which are under that letterhead and signed by a corporate officer, would violate 2 U.S.C. §441b (formerly 18 U.S.C. §610). Generally, it is unlawful for "any corporation whatever" to make a contribution or expenditure, or for any candidate to accept or receive same "in connection with" any Federal election. "Contribution" or "expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . to any candidate . . . in connection with any [Federal] election . . ." 2 U.S.C. §441b. Thus, the use of corporate stationery, facilities, and personnel in connection with the type of fundraising activity your letter describes would be considered a corporate contribution and prohibited by §441b. The Commission's proposed regulations as submitted to the Congress include provisions allowing the limited use of

certain corporate facilities by stockholders or employees for individual volunteer activity connected with a Federal election, see §114.9 (copy enclosed).

In your letter of December 26, 1976, you ask whether your use of the facilities of the Vassalboro Volunteer Fire Department for campaign purposes without paying fair rental value would violate the provisions of 2 U.S.C. §441b. You state that the facilities are owned by a corporate entity. You further ask whether the fact that you have rendered past services to the Department as a volunteer may be counted as consideration for the use of the facilities so as to avoid the occurrence of a corporate contribution. The free use of the fire department's facilities as outlined above would appear to violate §441b which does not permit your volunteer services to be regarded as reimbursement for the fair rental value of the firehouse facilities. However, under §114.12 of the Commission's proposed regulations, meeting rooms on corporate premises may under certain conditions be made available to political committees or candidates. A copy of the cited language is enclosed for your information.

Your letter of December 17, 1975, raises several questions concerning your personal legal services in advising a corporation desiring to establish a political action committee which might subsequently make a contribution to your campaign. There appears to be nothing improper about this activity as long as the legal fee is the normal and usual fee for such services. Any amount in excess of the normal and usual fee would be regarded as a contribution which, if made by the corporation, would be prohibited by 2 U.S.C. §441b. The fact that you rendered legal services in connection with the creation of the political action committee would not bar the committee from making an otherwise proper contribution to your campaign.

The issue of whether the political action committee, which receives a \$1,000 contribution from one of the sponsoring corporation's officers or employees who has already given a direct \$1,000 contribution to your principal campaign committee, may make its own contribution to your campaign committee is directly answered by §110.1(h) of the proposed regulations, copy enclosed.

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You ask for suggestions as to how supervisory personnel may avoid soliciting subordinate employees for contributions to the corporate political action committee. The Federal Election Campaign Act Amendments of 1976, as well as the Commission's proposed regulations to implement 2 U.S.C. §441b, have significantly and substantially revised this and other holdings in Advisory Opinion 1975-23. Under the language of 2 U.S.C. §441b, and the proposed regulations, subordinate executive and administrative personnel may be solicited by their superiors for voluntary contributions to the separate segregated fund of the corporation. Note that the class of individuals who may be generally solicited by the corporation no longer includes all employees, but is restricted to "executive and administrative personnel" and stockholders. 2 U.S.C. §441b(b). See also Part 114 of the proposed regulations (copy enclosed) which will implement §441b, and in particular §114.5. The awarding of a bonus to reimburse an executive for a contribution is prohibited under §114.5(b)(1) of the proposed regulations. Section 114.3 of the proposed regulations sets forth examples of the types of partisan communications that a corporation may direct to its executive and administrative personnel and to stockholders. See 2 U.S.C. §441b(b)(2)(A).

In view of the circumstances it appears that no further response to your letters is needed. As noted previously, the proposed regulations were submitted to the Congress on August 3, 1976, but may be prescribed by the Commission in final form only after the expiration of thirty legislative days, from the date received by Congress, without disapproval by either the House or the Senate. 2 U.S.C. §437(c). This response is for informational purposes only and should not be construed as an opinion of an advisory nature. 2 U.S.C. §437.

Sincerely yours,

"Signed"

W. Bradley Litchfield
Assistant General Counsel

[§§114-110.1(h)]

Enclosure