

## ADVISORY OPINION 1975-75

### Contributions From Nonprofit Incorporated Organizations of Professionals

The Federal Election Commission issues this advisory opinion under 2 U.S.C. §437f in response to a request submitted by the American Dental Political Action Committee (ADPAC). The request was published by the Commission in the Federal Register on October 1, 1975 (40 FR 45294). Interested persons were given an opportunity to submit comments relating to the request. No comments were received.

ADPAC is an unincorporated political committee which supports candidates for Federal office and which has registered as a political committee with the Commission. ADPAC inquires whether the Legislative Interest Committee of Illinois Dentists (LICID) is prohibited from making contributions by 18 U.S.C. §610, and whether it may accept contributions from LICID. LICID is a non-profit organization, incorporated for liability purposes only, whose only function in the past was to support candidates for the Illinois legislature. LICID now anticipates making contributions to and independent expenditures on behalf of Federal candidates.

The Commission previously issued an advisory opinion, AO 1975-16, which stated in part, that "If a non-profit organization is created expressly and exclusively to engage in political activities, however, and has incorporated for liability purposes only, the general prohibitions in Section 610 will not apply." Thus, the mere fact of LICID's incorporation does not prohibit it from making contributions and expenditures to or on behalf of Federal candidates.

However, in order to contribute to Federal candidates or political committees [as defined in 2 U.S.C. §431(d) and 18 U.S.C. §591(d)] LICID must comply with either of the following alternative courses of action. Compliance with one of the alternatives is necessary since some of LICID's funds are apparently paid or donated by corporations. The alternatives are:

- (1) If LICID intends to make contributions to non-Federal and Federal candidates from one general fund, it must:
  - (a) file a Statement of Organization as a political committee under 2 U.S.C. §433;
  - (b) disclose the sources of all monies in its general fund in its first report required under 2 U.S.C. §434;
  - (c) return all monies, whether dues or contributions, which were paid or contributed in violation of relevant Federal law including 18 U.S.C. §§608, 610, 611, 613, 614, and 615, and thereafter refuse to accept such monies at any time;
  - (d) report all receipts and disbursements, Federal or non-Federal, pursuant to 2 U.S.C. §434 and the Commission's future regulations on disclosure.

(2) LICID may otherwise establish a separate Federal campaign committee for the purpose of making contributions or expenditures in connection with Federal elections, and ADPAC may receive contributions from this committee subject to the following:

(a) the separate committee may not receive contributions other than contributions designated by the donor for such committee or where the solicitation expressly states that such contribution will be used for Federal elections;

(b) all contributions to the committee will be subject to the limitations of 18 U.S.C. §608(b) and the prohibitions of 18 U.S.C. §610, 611, 613, 614 and 615;

(c) the committee may receive other contributions, in the form of transfers, only from another Federal campaign committee or political committee [2 U.S.C. §431(d) and 18 U.S.C. §591(d)];

(d) LICID shall file a Statement of Organization with the Commission and shall file reports of contributions received by and expenditures made from the Federal Committee pursuant to 2 U.S.C. §§433, 434 and the commission's future regulations on disclosure.

(e) LICID must pay the expenses of establishing, administering and soliciting contributions to the separate Federal campaign committee only from monies properly in this committee.

It should be noted, however, that although an incorporated non-profit political committee is not subject to the prohibitions of §610, the treasurer and the chairman of such a political committee nevertheless remain personally responsible for carrying out their respective duties as contemplated by the Federal Election Campaign Act of 1971, as amended. The fact of incorporation does not absolve those officers of any liability imposed upon them under the Act, implementing regulations, and pertinent provisions of Title 18, United States Code.

This advisory opinion is issued on an interim basis pending promulgation by the Commission of rules and regulations or policy statements of general applicability.

Date: December 10, 1975

(signed) \_\_\_\_\_  
Thomas B. Curtis  
Chairman for the  
Federal Election Commission