

August 16, 1976

RE: AOR 1975-92

Alan P. Dye
Webster, Kilcullen & Chamberlain
1747 Pennsylvania Avenue, NW
Washington, DC 20006

Dear Mr. Dye:

This refers further to your request for an opinion concerning the application of 18 U.S.C. §610 (now 2 U.S.C. §441b) to the proposed incorporation of American Apparel Manufacturers Political Action Committee.

As you know, the Supreme Court held in Buckley v. Valeo, 424 U.S. 1 (1976), that the Commission as then constituted lacked the power to issue advisory opinions. From the date of that decision on January 30 until reconstitution of the Commission on May 21, 1976, no advisory opinion could be issued. Moreover, since May 21 the Commission has been required to give priority to the consideration of proposed regulations which must be submitted to Congress under 2 U.S.C. §438(c). We apologize for the unavoidable delay in responding to your request.

The Commission has recently given final approval to proposed regulations implementing 2 U.S.C. §441b. Section 114.8 of these proposed regulations treats political fundraising activity of trade associations. In addition, §114.12(a) of the proposed regulations would allow the incorporation of political committees for liability purposes only. Enclosed are copies of §§114.8 and 114.12(a) of the proposed regulations.

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). The regulations were submitted to 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 political 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

Enclosures [§§114.8 and 114.12(a) of proposed regs]