9 JUL 1976

AO 1976-4

Donald J. Morfee, Chairman
Pullman Employees' Good Government
Fund
200 South Michigan Avenue
Chicago, Illinois 60604

Dear Mr. Morfee:

This refers to your letter of March 10, 1976, in which you request an opinion concerning contributions by foreign nationals to the Pullman Employees' Good Government Fund (the "Fund").

In your letter you express concern for the legality of contributions from full-time salaried employees who are not citizens of the United States, but who possess a "green card" issued by the Immigration and Naturalization Service as a permanent residency visa. Based on records on file with the Commission, I understand that the employees to which you refer are employees of Pullman, Incorporated, which operates the Fund as a separate segregated fund under 2 U.S.C. §441b (formerly 18 U.S.C. §§610). The cited section prohibits a corporation from generally soliciting political contributions to its fund from anyone other than stockholders and executive or administrative personnel of the corporation. A special, twice a year mail solicitation to all employees is permissible under certain conditions, see 2 U.S.C. §441b(b)(4)(B) and Part 114 of the Commission's Notice of Proposed Rulemaking, copy enclosed. Under 2 U.S.C. §441e political contributions by foreign nationals are prohibited. Subsections (b)(1) and (2) define foreign nationals to include:

(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. §611(b)), except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. §1101(a)(20)).

It is the Commission's opinion that the green card holders employed by your sponsoring corporation would not be foreign nationals under clause (2) of 2 U.S.C. §441e(b) since holders of the green card are considered as lawfully admitted for permanent residence under 8 U.S.C. §1101(a)(20). However, an additional condition to

making an otherwise lawful contribution is that such an employee may not be a "foreign principal" as that term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. §611(b)).

The Foreign Agents Registration Act defines "foreign principal" to include:

1. a government of a foreign country and a foreign political party;

2. an individual affiliated or associated with, or supervised, directed, controlled, financed, or subsidized, in whole or in part, by any foreign principal defined in clause (1) of this subsection;

3. a person outside of the United States, unless it is established that such person is an individual and is a citizen of and domiciled within the United States or that such person is not an individual, is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States, and has its principal place of business within the United States. Nothing in this clause shall limit the operation of clause (5) of this subsection;

4. a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in a foreign country;

5. a domestic partnership, association, corporation, organization, or other combination of individuals, subsidized directly or indirectly, in whole or in part, by any foreign principal defined in clause (1), (3), or (4) of this subsection;

6. a domestic partnership, association, corporation, organization, or other combination of individuals, supervised, directed, controlled, or financed, in whole or in substantial part, by any foreign government or foreign political party.

Thus, if the employees in question do not fall within any of the foregoing categories, they are not precluded by §441e(b)(1) from making otherwise lawful political contributions. It should be stressed, however, that if, as seems evident, the employees in question are other than stockholders, executive or administrative personnel of the corporation, they may only be solicited by the corporation under the twice yearly procedure described by 2 U.S.C. §441(b)(4)(B).

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act to the specific factual situation set forth in your request. See 2 U.S.C. §437f.

Sincerely yours,

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

Enclosure