



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 20, 1977

AO 1976-104

R. W. Benner, Chairman
Good Government Committee
of First Federal Savings of Miami
One Southeast Third Avenue
Miami, Florida 33131

Dear Mr. Benner:

This is in response to your request of November 17, 1976, for an advisory opinion as to whether the Good Government Committee of First Federal Savings of Miami ("the Committee") would be considered an affiliated committee of either or both of two other political committees to which the Committee gave substantial contributions.

You state that the Committee was organized pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"), as the political action committee of First Federal Savings and Loan Association of Miami. You describe the "membership" of the Committee as consisting "solely of officers, directors and staff members of First Federal Savings and Loan Association of Miami."*

The Committee is, you say, entirely independent of any other political committee and makes its own determination as to which candidates and committees it will contribute. During 1976 the Committee contributed "a substantial portion of its total receipts" to the Savings Association Political Elections Committee (SAPEC) and to the Florida Savings Political Action Committee (FSPAC), and you state that although the Committee has no obligation to make similar contributions in the future, the Committee "will probably wish to do so if it remains in existence." You ask whether the Committee

* The Commission notes that 2 U.S.C. §441b prescribes the class of persons who may be solicited for political contributions by both a corporation and its separate segregated fund, i.e., political action committee; Part 114 of the Commission's regulations (copy enclosed) also governs with respect to the described political activities. Political fundraising by or on behalf of First Federal may also be affected by other provisions of Federal law such as those relating to the Federal Home Loan Bank Board, e.g., 12 C.F.R. § 544. See also the Commission's response to AOR 1976-109 (copy enclosed).

is thereby considered to be affiliated with SAPEC and/or FSPAC, and if so how that would affect contributions by the Committee to SAPEC and FSPAC, and those committees' contributions to other candidates and political committees.

The Act limits the amount of contributions which may be made by persons, including political committees, to candidates, their authorized campaign committees, and other types of political committees. 2 U.S.C. §441a(a)(1) and (a)(2). The 1976 Amendments to the Act also include a provision which states:

For purposes of the limitations provided [in 2 U.S.C. §441a(a)], all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made a single political committee. 2 U.S.C. §441a(a)(5).

This "anti-proliferation" provision was designed to prevent evasion of the Act's contribution limits by the existence of splinter political action committees (PAC's), which were ostensibly separate entities, but were in fact set up, aided, directed or controlled in some manner by the parent organization. The establishment of several PAC's within a single organization is not precluded; all such PAC's are, however, deemed affiliated and treated as "a single political committee," for purposes of sharing a single contribution limit both with respect to contributions made to the affiliated PAC's by other persons, and contributions made by the PAC's to candidates and committees.

The Commission has sought, in its regulations, to implement the above-quoted provision by providing specific examples of the application of the "anti-proliferation rule" (taken from the Conference Report, H. R. Rep. No. 94-1057, 94th Cong., 2d Sess. 58, which accompanied the 1976 Act). See generally §110.3(a)(1)(i) and (ii) of the regulations. For entities not described by (i) or (ii), the regulations further provide in §110.3(a)(1)(iii) :

- [I]ndicia of establishing, financing, maintaining, or controlling may include--
- (A) Ownership of a controlling interest in voting shares or securities;
 - (B) Provisions of by-laws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;
 - (C) The authority, power, or ability

to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity;

(D) Similar patterns of contributions;

(E) The transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred. (Emphasis added.)

Based on a review of the records filed by the Committee and FSPAC, it appears that the Committee did indeed contribute during 1976 a "substantial portion" of its receipts to FSPAC (\$1,500 of \$3,818, or approximately 40 percent). These records also indicate similar patterns of contributions between the Committee and FSPAC: two-thirds of the Federal candidates to whom the Committee made contributions also received contributions from FSPAC; one-third of the Federal candidates to whom FSPAC made contributions also received contributions from the Committee. Accordingly, by virtue of the last two criteria of §110.3(a)(1)(iii), the Commission concludes that the Committee and FSPAC are affiliated committees. Therefore, both the Committee and FSPAC would be entitled to a single contribution limit with respect to their contributions to Federal candidates and committees. Contributions from other persons to the Committee and FSPAC would be regarded as contributions to a single committee for limitation purposes. However, contributions (transfers) between the Committee and FSPAC would be unlimited since, for purposes of contribution limits, they are considered the same political committee. All such transactions would, of course, be subject to disclosure under the Act since the committee and FSPAC retain their character as distinct reporting entities even though they are affiliated. See Advisory Opinion 1977-21 (copy enclosed).

With respect to the question of affiliation between the Committee and SAPEC, based on a review of the reports of each, and the information you have supplied, the Commission is unable to determine whether the Committee and SAPEC are affiliated at this time.

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

Sincerely yours,

(signed)

Thomas E. Harris

Chairman for the

Federal Election Commission

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Enclosures [8/25/76 FR reprint w/insert, Re: AOR 1976-109, and AO 1977-21]