



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 17, 1977

Re: AOR 1976-113

James J. Butera, Esquire
Savings Bankers Non-Partisan
Political Action Committee
Suite 200, 1709 New York Avenue, N.W.
Washington, D.C. 20006

Dear Mr. Butera:

This is in response to your letter of December 14, 1976, requesting an advisory opinion regarding application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to solicitations by a trade association's political committee.

You represent the Savings Bankers Non-Partisan Political Action Committee (PAC), a multicandidate committee which is the separate segregated fund of a trade association. Traditionally, the PAC has conducted its annual solicitation over a 3 or 4 month period beginning in November and extending into the next calendar year.

Accordingly, this year the PAC began its solicitation of "officers" of member corporations in November, after having obtained the corporations' prior approval as required by the Act. The PAC would now like to "follow up" on the 1976 solicitation in the early months of 1977, through further letters and personal contacts. You request an advisory opinion which would treat follow-up activities in early 1977 as part of the 1976 solicitation, so that the PAC need not obtain specific prior approval from the member corporations for its early 1977 solicitation efforts. The Commission concludes that the Act does not allow such a result.

As you are aware, the Act provides that a trade association or its separate segregated fund may solicit the stockholders and executive or administrative personnel (and their families) of its member corporations only under certain conditions. These specific conditions are that the solicitation "has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year." (Emphasis added). 2 U.S.C. §441b(b)(4)(D). This statutory language implies that a

corporate member must give its prior approval for solicitation for one calendar year at a time, and that a new solicitation approval must be obtained in and for each year. This is the position expressed by the Commission in its proposed regulations as published in the Federal Register on August 25, 1976:

A separate authorization specifically allowing a trade association to solicit its corporate member's stockholders and executive or administrative personnel applies through the calendar year in which it is obtained. A separate authorization must be obtained each year.
§114.8(d)(4).

The "follow-up" activities you propose to undertake in early 1977 are clearly a separate solicitation in a new calendar year, for which prior and specific approval must be granted by the corporate members. Further, if the corporations give such approval for the 1977 solicitation, they may not grant approval to any other trade association for the calendar year 1977. As was stated by the Chairman of the House Administration Committee during congressional debates on the 1976 Amendments to the Act, the House conferees rejected a narrow definition of the word "solicitation." 122 Cong. Rec. H3779 (daily ed. May 3, 1976). Your proposed 1977 activities would obviously constitute 1977 "solicitations" and cannot be viewed as part of the 1976 contribution drive. The corporate members would have to approve any 1977 efforts, in accordance with 2 U.S.C. §441b(b)(4)(D) and §114.8 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. These proposed regulations were formally adopted by the Commission and serve as interpretative rules of the Commission as to the meaning of the pertinent statutory language. The proposed rules were originally transmitted to the Congress on August 3, 1976, and resubmitted on January 11, 1977. See 2 U.S.C. §438(c). For your information I enclose a copy of a Commission policy statement regarding those rules.

Sincerely yours,

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

Enclosure [Policy Statement on Regs]