

20 SEP 1976

AO 1976-18

Mr. Logan M. Cheek  
Vice Chairman  
HEED  
8 Lodge Pole Road  
Pittsford, New York 14534

Dear Mr. Cheek:

This refers to your letter of May 19, 1976, requesting an advisory opinion as to the application of the Federal Election Campaign Act of 1971, as amended ("the Act") to the political fundraising program of "Helping Enterprise and Economic Development" (HEED), the political action committee of the Rochester area Chamber of Commerce.

We regret the delay in answering your inquiry, but since the date of its reconstitution on May 21, 1976, 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). The proposed regulations have now been completed, and were sent to Congress on August 3, 1976.

HEED is supported by the Chamber and the Chamber pays the administrative expenses of HEED with membership dues which contain corporate funds. As a result of a recent telephone conversation with a member of the General Counsel's staff, you indicated that you have revised your plan in light of the prohibition of contributions to Presidential candidates who have elected to receive public funding. Under your current plan, HEED proposes to raise money through the sale of printed T-shirts. The T-shirts would be printed in a variety of styles, each of which is to be supplied by the Republican and Democratic Presidential campaign committees.

HEED will make up an inventory of sizes and styles and provide them to local retail firms (primarily incorporated department stores) for distribution. The stores, which are members of the Chamber, will provide free retailing services for the distribution of the shirts. Purchasers of the shirts will be told that all net proceeds of the sale will be considered a contribution. The purchaser will be provided with a form at the time of the sale which will allow the purchaser to designate the recipient of the contribution. The form will include the following information:

\*Name of designated candidate or political committee

-Democratic or Republican National Committee

-Democratic or Republican Congressional candidates in your area

-State or local party organization of either party

-No designation

\*A request for all data necessary for the record keeping requirements of the Act.

HEED and the retail merchant-member will act as agents to (a) "make and sell," (b) pay the supplier of the shirts, and (c) channel the money to the candidates or political committees designated. Contributions which are not designated will be retained by HEED for its own "non-partisan political activities."

Corporate treasury money may not be used to raise funds from the general public for candidates or political committees. Such activity would be considered a contribution or expenditure. Although §441b provides three exceptions to the definition of contribution or expenditure, these exceptions are not applicable to the type of activity you prescribe. In using corporate dues money to fund the described activity, the Rochester area Chamber is also limited by §441b. In addition, a separate segregated fund of a political committee set up by a corporation or membership organization having corporations as members is prohibited from using "monies obtained in any commercial transaction" to make a contribution or expenditure in connection with a Federal election. 2 U.S.C. §441b(b)(3)(A).

HEED would also be prohibited from raising money for its own activities in the manner outlined in your letter. The Act allows corporate treasury monies to be used to solicit contributions to a separate segregated fund or political committee established by a corporation or membership organization having corporations as members. However, such a corporation or membership organization may not solicit the general public for contributions to its separate segregated fund or political committee. The limitations on the persons who may be solicited, and the conditions under which they may be solicited, are set forth in §441b(b)(4). See also Part 114 of the Commission's proposed regulations which, as noted above, were submitted to Congress on August 3, 1976, and published in the Federal Register on August 25, 1976 (copy enclosed).

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