



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 1, 1976

AO 1976-75

Mr. B.P. Ransdell  
Campaign Treasurer  
Communicators-Political  
Action Committee  
Post Office Box 3763  
San Angelo, Texas 76901

Dear Mr. Ransdell:

This refers to your letters dated August 23, and September 2, 1976 on behalf of Communicators-Political Action Club ("C-PAC") a registered political committee. The material facts concerning your inquiry are as follows: C-PAC's membership is limited to the management employees of the General Telephone Company of the Southwest. Members pay a monthly membership fee which is a volunteered amount, ranging from \$2.00 to \$6.00 per member per month. Ninety-nine per cent of the members permit payroll deduction of their monthly fee. At election time each member is provided candidate information and has the prerogative of designating, to candidates of his choice, contributions equal to the amount of total accumulated membership fees. A Steering Committee composed of elected C-PAC members may then contribute any undesignated funds to Federal candidates.

You ask two questions. First, whether certain "foremen" who supervise hourly employees may be considered executive or administrative personnel within the meaning of the Federal Election Campaign Act of 1971, as amended ("the Act") 2 U.S.C. §441b. Second, assuming that these foremen are outside the class which may be solicited at any time, may their previous contributions to C-PAC pursuant to the payroll deduction plan be used by C-PAC as contributions to Federal candidates.

With regard to your first question, the Commission has recently given final approval to proposed regulations which interpret the statutory definition of executive and administrative personnel contained in 2 U.S.C. §441b(b)(7). The regulations (§114.1(c)) state, in pertinent part, that:

“Executive or administrative personnel” means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(1) This definition includes:

(i) the individuals who run the corporation’s business such as officers, other executives, and plant, division and section managers; and

(ii) individuals following the recognized professions, such as lawyers and engineers.

(2) This definition does not include:

(i) professionals who are represented by a labor organization;

(ii) salaried foremen and other salaried lower level supervisors having supervision over hourly employees;

Obviously, the Commission is not in a position to review the status of each employee involved. A suggested guideline to follow, however, is that where the supervision of a hourly employee is only an incidental part of the supervisory employee’s function, such as the supervision of a clerk or secretary, the supervisory employee would not be placed outside the class of executive or administrative personnel on that basis alone. Where, however, the supervision of hourly employees is the principal function of the supervisory employee, as is the case with most line supervisors, then, absent strong evidence to the contrary, that employee would not be within the class of executive and administrative personnel.

The answer to your second question depends, of course, on a determination of whether a particular employee falls within or without the class of executive or administrative personnel.

Assuming, without deciding that certain of the foremen you describe in your letter are outside the aforesaid class, §114.2(d) of the Commission’s proposed regulations is relevant. That section states that:

a corporation which, prior to May 11, 1976, had solicited employees other than stockholders

or executive or administrative personnel for voluntary contributions to its separate segregated fund and had offered such employees the opportunity to enroll in a payroll deduction plan may, until December 31, 1976, unless the employee withdraws before that date, continue to deduct contributions from the checks of employees who signed up prior to May 11, 1976. Any solicitation of such employees after May 11, 1976, is subject to the provisions of 2 U.S.C. §441(b)(4)(B) and §114.6 when prescribed.

Implicit in the above-quoted regulations is that money received from nonexecutive or administrative personnel under the circumstances described may be used by C-PAC for contributions to Federal candidates, and the voluntary continuation of payroll deductions for such employees until December 31, 1976, would not per se be a solicitation.

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 30 legislative days from the date received by them. 2 U.S.C. § 438(c). The proposed regulations were submitted to Congress on August 3, 1976.

Sincerely yours,

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