



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 7, 1977

Re: AOR 1976-94

John E. Ahearn, Counsel
Insurance Association
of Connecticut
Suite 1304, 60 Washington Street
Hartford, Connecticut 06106

Dear Mr. Ahearn:

This is in response to your letter of September 23, 1976, requesting an advisory opinion concerning the application of §114.8(e)(3) of the Commission's proposed regulations to the Connecticut Insurance Political Action Committee (CIPAC).

CIPAC is the separate segregated fund established and maintained by the Insurance Association of Connecticut (IAC), a trade association. None of the member corporations of IAC have established their own separate segregated funds. You state that since June 3, 1976, several of the member corporations have granted the solicitation approval required by §114.8 and have instituted payroll deduction plans to facilitate contributions from their executive and administrative personnel to CIPAC. On August 25, 1976, the Commission published in the Federal Register §114.8(e)(3) which prohibits the use of a payroll deduction system by corporate members of a trade association as a method of facilitating contributions to the trade association's separate segregated fund. You inform us that the member companies you represent relied on an earlier draft of proposed regulations, published in the Federal Register on May 26, 1976, which tentatively provided that a member corporation could use such a payroll deduction system.

As you know, the proposed regulations published on May 26, 1976, were not adopted by the Commission. The Commission invited critical commentary and held extensive public hearings on that draft of the regulations. On the other hand, the proposed rules submitted to the Congress on August 3, 1976 (resubmitted on January 11, 1977), and published in the Federal Register on August 25, 1976, were formally adopted by the Commission.

The Federal Election Campaign Act of 1971, as amended ("the Act"), specifically allows a trade association or its separate segregated fund to solicit contributions from the stockholders and executive or administrative personnel of member corporations. The member corporations must "separately and specifically" approve such solicitation and may not approve a solicitation by more than one trade association in any calendar year, 2 U.S.C. §441b(b)(4)(D). The Act generally prohibits corporate political contributions but does allow a corporation to establish, administer and solicit contributions to "a separate segregated fund to be utilized for political purposes." 2 U.S.C. §441b(b)(2)(C). The statutory provision permitting trade association solicitation of restricted classes does not waive the general prohibition on contributions by corporations which are members of a trade association. See §114.8(b) of the proposed regulations.

The Commission has held that a corporate member of a trade association may solicit contributions from its shareholders and executive and administrative personnel only for its own separate segregated fund, not that of the trade association although it may give incidental assistance to an approved solicitation by the trade association. See the Commission's response to AOR 1976-63, a copy of which is enclosed. The Commission is of the view, however, that installation of a payroll deduction or check off system by a member corporation of a trade association to facilitate contributions from executive and administrative personnel of the corporation to the political fund of the trade association is more than incidental aid. Accordingly, providing such a service would constitute a prohibited corporate contribution to the trade association's separate segregated fund. Section 114.8(e)(3), as you know, explicitly prohibits use of a check off under the circumstances described in your request. However, in view of the differing treatment given this matter in the May 26 and August 25 Federal Register publications, the Commission would not require any refund or return of contributions, otherwise proper, to CIPAC which were deducted from payroll checks on or before August 25, 1976.

You refer to §114.12(d) of the proposed regulations. This section merely allows a corporation, which solicited employees generally for voluntary contributions to its fund and offered them a payroll deduction plan prior to May 11, 1976 (the effective date of the 1976 Amendments to the Act), to continue deductions until December 31, 1976. This provision and the rationale supporting it do not apply to the corporate members of IAC which instituted payroll deductions for executive and administrative personnel contributions to CIPAC after May 11, 1976.

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

Enclosures [Re: AOR 1976-63, 10/5/76 policy statement]