



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 27, 1977

AO 1977-17

James T. Malysiak, Esquire
Freeman, Rothe, Freeman & Salzman Attorneys and Counsellors at Law
Suite 3200, One IBM Plaza
Chicago, Illinois 60601

Dear Mr. Malysiak:

This refers to your letter of April 4, 1977, in which you request an advisory opinion on behalf of the Commodity Futures Political Fund ("CFPF") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"). You ask whether "commodity representatives" may be regarded as "members" of the Exchange for purposes of allowing CFPF to solicit voluntary contributions from them to CFPF under 2 U.S.C. 441b(b)(4)(C) and 114.7 of the Commission's regulations.

Your letter explains that the CFPF is a political committee and separate segregated fund established by the Chicago Mercantile Exchange, a not-for-profit corporation under Illinois law and a membership organization. Exchange rules provide that members must be natural persons, not corporations or partnerships; members have the privileges of trading on the Exchange floor and voting in Exchange elections.

Your letter describes commodity representatives as:

natural persons who are not members of the Exchange but who are engaged to act as sales representatives for commodities dealt in or listed on the Exchange. . . . (Emphasis added.)

Your letter further states that, for purposes of enforcing Exchange rules, commodity representatives are considered members of the Exchange "unless the context otherwise requires."

You have confirmed that commodity representatives neither have trading privileges on the Exchange floor, nor the right to vote in Exchange elections or on the adoption of Exchange rules; nor do they have the capacity to serve as directors or officers of the Exchange. Thus, in several significant respects, commodity representatives do not have the same status within the Exchange as is enjoyed by full members. In this connection 114.1(e) of the Commission's regulations defines "members" to mean:

all persons who are currently satisfying the requirements for membership in a membership organization . . . or corporation without capital stock.

Under the above-stated facts, the Commission concludes that commodity representatives are not members of the Chicago Mercantile Exchange for purposes of 2 U.S.C. 441b(b)(4)(C) and 114.7 of the Commission's regulations. Consequently, the Commodity Futures Political Fund is not permitted to solicit voluntary contributions from these individuals.

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