



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

June 3, 1977

AO 1977-20

William R. Magel  
Assistant Treasurer  
Realtors Political Action Committee  
430 North Michigan Avenue  
Chicago, Illinois 60611

Dear Mr. Magel:

This refers to your letter of April 18, 1977, on behalf of the Realtors Political Action Committee ("RPAC") which requests an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to RPAC's proposed procedure for depositing and allocating contributions solicited and collected for State and Federal elections.

Your letter sets forth various facts concerning RPAC and its parent trade association and explains the circumstances which prompt the opinion request. It also describes the proposed procedure for handling funds collected in a joint (State/Federal) fundraising campaign.

### FACTS

The NATIONAL ASSOCIATION OF REALTORS, a National not-for-profit incorporated trade association has established an unincorporated multi-candidate committee called the REALTORS Political Action Committee (RPAC) which is registered with the Federal Election Commission to support federal elections and candidates for federal office.

The membership of the NATIONAL ASSOCIATION OF REALTORS, with the exception of certain Local Board or State Associations, are individual brokers or salespersons and are not corporations or partnerships.<sup>1</sup>

The NATIONAL ASSOCIATION OF REALTORS has affiliated with it, State Associations of REALTORS in each of the fifty states. . . .

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<sup>1</sup> This opinion is limited to the issues explicitly presented in your opinion request; it does not reach any question concerning application of 2 U.S.C. 441b and Part 114 of the Commission's regulations to the National Association of Realtors, its membership including local boards or State associations of realtors in each of the fifty States, RPAC, or any political action committee established, organized, or operated by a State association.

Forty-seven of the State Associations have established Political Action Committees.

These State Political Action Committees do not support federal elections or federal candidates, but rather confine their activities to the support of local and state elections and candidates.<sup>2</sup>

The State Political Action Committee and RPAC engage in joint campaigns to solicit political contributions from their common members. These campaigns are conducted under a written agreement which provides that voluntary non-corporate contributions received will be divided between the State PAC and RPAC on a 60%-40% basis and that part of the contributions received by the State PAC will be used to support federal elections or candidates for federal office.

#### PROBLEMS CONNECTED WITH DEPOSITORY AND ALLOCATING CONTRIBUTIONS

If the contribution checks received, incident to the joint campaign, are deposited to the account of the State PAC and 40% of such deposits are then transferred to RPAC pursuant to Agreement it is our understanding that the State PAC would be compelled to report all such contributions to the FEC . . . notwithstanding the fact that it does not contribute to or support federal elections or candidates for federal office. . . .

If on the other hand contribution checks received, incident to this joint campaign, are deposited to the account of RPAC and 60% of such deposits are then transferred to the State PAC pursuant to Agreement, then certain other problems are encountered; specifically, . . . certain state campaign election laws would preclude RPAC from transferring the full 60% of contributions due; . . . and . . . the total amount received by RPAC would be charged against the contributor's Federal contribution limits even though only 40% of such amount would, in fact, be used for supporting federal elections and candidates for federal office through RPAC contributions.

#### PROPOSED SOLUTION TO PROBLEM

To avoid these problems which appear to result from the deposit of monies collected in a joint fund-raising campaign, to the account of either RPAC or the State PAC, the Federal Election Commission is requested to approve this following procedure for receiving and allocating such monies:

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<sup>2</sup> The Commission notes the application of the Act, and in particular 2 U.S.C. 441a(a)(5), to the described "State Political Action Committees" to the extent their activities are not confined "to the support of local and State elections and candidates."

First, all contributors would be fully advised of the allocation to be made of their contributions between the State PAC and RPAC.

Second, all monies collected in the joint fund-raising effort pursuant to the Agreement would be deposited in a special account in a bank agreed upon by the State PAC and RPAC.

Third, the bank would be provided with escrow instructions directing it to divide all contributions deposited with it between the State PAC and RPAC on a 60%-40% basis.

Fourth, pursuant to such instructions, the bank would transfer to the designated State PAC account, the portion of the contribution due the State PAC and would transfer to the RPAC account in Chicago, Illinois, the portion of the contribution due RPAC.

Fifth, RPAC would report to FEC the names of each contributor and the dollar amount received by RPAC from such contributor (40% of total contribution).

The Commission concludes that your proposed procedure for receiving and allocating funds collected in a joint fundraising campaign conducted by RPAC and the described State political action committees is permissible under the Act and the Commission's regulations. In reaching this conclusion the Commission emphasizes the importance of complying with the following conditions which are made a part of this opinion.

#### Notice to contributors

All solicitation materials used in the joint fundraising campaign must give complete information as to the 60%-40% allocation of contributions for State and Federal purposes. Contributors must also be informed that the Federal portion of their contribution is charged against the applicable limits of 2 U.S.C. 441a.<sup>3</sup>

#### Designation of escrow depository account

The special bank accounts which will be used to divide funds between the State PAC's and RPAC must be designated by RPAC on its Statement of Organization as escrow depository accounts with full identification of each bank where such an account is established and used.<sup>4</sup>

#### Proper source for contributions deposited in escrow account

All joint contributions (including the State and Federal portions) deposited into the described special account must be otherwise lawful under the Act as to source; contributions

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<sup>3</sup> See 102.6(b) of the Commission's regulations which allows a Federal campaign committee, such as RPAC, to receive contributions as a result of a solicitation expressly stating that the contribution will be used for Federal elections. In this case the 40% share of each donation is the "contribution" for purposes of the Act.

<sup>4</sup> See 2 U.S.C. 437b(a)(2) and Part 103 of the regulations.

from national banks, corporations, labor organizations, government contractors, and foreign nationals are prohibited and may not be deposited in the described account. See 2 U.S.C. 441b, 441c, and 441e. Joint contributions from persons not subject to the cited prohibitions will be limited under 2 U.S.C. 441a only to the extent of RPAC's share (40%) of the joint contribution.

Accounting for contributions received by RPAC through escrow depository

Joint contributions made in connection with the described State/Federal campaign are deemed to have been received by RPAC at the time the contributor delivers such contribution to the treasurer of RPAC, his/her State agent, or other designated RPAC representative functioning on its behalf in each relevant State. The agent or other representative of RPAC is required under 103.3 of the regulations to deposit all contributions in the special escrow account within ten days from the date of receipt of the contributions. RPAC must also recognize receipt of each contribution for recordkeeping and reporting purposes on the date it comes into the possession of an agent, or other designated RPAC representative in the participating State, rather than when a bank transfer is received into RPAC's Chicago depository from a State escrow depository account. More specifically, this means that the State receiving agent, or other State RPAC representative, must furnish to RPAC headquarters the identification of each contributor whose allocated 40% contribution to RPAC exceeds \$50 and the contributor's occupation and principal place of business if the contribution (40% portion) exceeds \$100 for the calendar year. See 2 U.S.C. 432(c) and 434(b); also see Parts 102, 103, and 104 of the regulations.

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