



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 12, 1978

AO 1977-53

Thomas H. McGowan, Esq.
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1218 Sixteenth Street, N.W.
Washington, D.C. 20036

Dear Mr. McGowan:

This responds to letters dated September 26 and November 16, 1977 requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and relevant regulations of the Commission to the proposal of the Asia-Pacific Council of American Chambers of Commerce (APCAC) to establish a political committee.

An advisory opinion is requested to confirm three assertions:

- "1. APCAC . . . is a federation of trade associations as defined in Section 114.8(g) of the Commission's regulations.
- "2. APCAC may solicit from U.S. citizens who are managerial level employees, officers, directors or shareholders of the member companies of . . . AmChams . . . and their families.
- "3. APCAC may use its general funds . . . for establishment, administration and solicitation costs as defined by the Commission's regulations."

The referenced letters reveal the following. APCAC is an unincorporated association formed in 1968. It is presently comprised of member American Chambers of Commerce or American business groups ("AMCHAMs") located in and having their principal places of business in ten countries. APCAC also has one associate member AMCHAM located in Guam and five liaison member AMCHAMs, one located in Hawaii and the remainder in countries other than the United States. These member AMCHAMs in turn have memberships consisting of businesses which have their principal places of business in countries in the Asia-Pacific region. The annual budgets of these member AMCHAMs is provided by the member businesses. Similarly, the annual budget of APCAC is provided by its member AMCHAMs pro-rata on the

basis of the income that they derive from their own memberships. Further, neither APCAC nor its member AMCHAMs are United States corporations and are often regulated by the laws of the countries in which they are situated.

The materials you have submitted do not specifically address the factual questions which underlie verification of your first assertion. See 11 CFR 112.1. However, such verification is unnecessary since it is the opinion of the Commission that your second and third assertions are erroneous.

The Act as well as the Commission's regulations expressly prohibit a foreign national from making any contribution in connection with an election, either "directly or through any other person." 2 U.S.C. 441e(a); 11 CFR 110.4(a)(1). The term "foreign national" includes "a partnership, association, corporation, organization or other combination of persons organized under the laws of or having its principal place of business in a foreign country." 22 U.S.C. 611(b).

Your submission indicated that APCAC is an "association, . . . [or] organization" which has its principal place of business in a foreign country, presently the Philippines. Thus, APCAC is a "foreign principal" within the meaning of 441e. Of equal significance, however, are two additional facts. First, APCAC's member AMCHAMs (other than those situated in Guam and Hawaii) and the members of those AMCHAMs are also organized under the laws of or have their principal places of business in foreign countries, and are thus also foreign nationals. Second, APCAC's budget, irrespective of the location in any given year of APCAC's principal place of business, is provided by its member foreign principals.

The statutory prohibition against election-connected contributions by foreign nationals is unqualified. 2 U.S.C. 441e. That is, the exemption from that prohibition which is provided in 2 U.S.C. 441b(b)(4)(C) for "the establishment, administration and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock," does not extend to Section 441e and is not available to foreign nationals such as APCAC or the member organizations which provide APCAC's budget. Thus APCAC's use of its general funds for establishment, administration and solicitation costs defined by the Commission's regulations or by 2 U.S.C. 441b(b)(4)(D) [solicitation by a trade association] is prohibited by both 2 U.S.C. 441e and 11 CFR 110.4(a)(1).

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)

Joan D. Aikens

Vice Chairman for the

Federal Election Commission