



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

June 5, 1978

AO 1978-13

Samuel L. Goldsmith, Jr., Treasurer  
Aluminum Association Political Action Committee  
818 Connecticut Avenue, N.W.  
Washington, D.C. 20006

Dear Mr. Goldsmith:

This responds to your letter of February 17, 1978, requesting an advisory opinion concerning permissible corporate payment of expenses incurred by corporate employees acting in their capacity as member - directors of Aluminum Association Political Action Committee ("AAPAC") under the Federal Election Campaign Act of 1971, as amended (the "Act".)

According to your letter AAPAC is the political action committee of the Aluminum Association, a trade association, located in Washington, D.C. and comprised of 87 member corporations. The governing body of AAPAC is a board of directors consisting of two Association executive personnel and five representatives of five member companies of the Association. These five are the official representatives of their respective corporations to the Aluminum Association and regularly attend Association meetings in Washington, D.C.

Each member corporation of the Association pays yearly dues which become the Association operating capital. Out of this operating capital AAPAC's establishment, administration and solicitation costs are paid and it is from these funds that the Association paid for the travel related expenses incurred by the five directors in attending the organization meeting of the AAPAC board of directors held in Washington, D.C. Each corporation covers the expenses of its representatives incurred by attending Association meetings. Your letter states that future meetings of AAPAC are expected to be held either preceding or following scheduled Association meetings and that any necessary expenses related to attendance at AAPAC meetings will be insubstantial.

Specifically, you suggest that travel related expenses may not come within the Commission's definition of "establishment, administration and solicitation costs" as set forth in 11 CFR 114.1(b) which are payable by the trade association. You ask that the corporate employers of the five AAPAC member-directors be allowed to pay for their transportation and

living expenses when attending AAPAC meetings, and that such payments not be considered as corporate contributions to AAPAC.

As you are aware, 2 U.S.C. 441b prohibits a corporation from making a "contribution or expenditure" in connection with Federal elections, but further provides that "contribution or expenditure" does not include "the establishment, administration and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation . . . [or] membership organization." 441b(b)(2)(C). Section 114.1(b) of the Commission's regulations defines these costs as the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, fundraising and other expenses incurred in setting up and running a separate segregated fund established by fund of corporation, labor organization, membership organization cooperative or corporation without capital stock.

The Commission concludes that travel related expenses of the five members incurred by coming to Washington, D.C. for the purpose of establishing or formally organizing AAPAC or for meeting and decision making for AAPAC would come within 114.1(b) since these are expenses incurred in "setting up and running" a political action committee. As such these expenses should be paid, as was done for the initial organization meeting, by the Aluminum Association.

However, where AAPAC meetings coincide with regular Aluminum Association meetings; that is, as stated in your letter those held either before or after scheduled Association meetings; and the costs incurred due to the AAPAC meeting are incidental to costs incurred by members in order to carry on general trade association business, the costs may be considered incidental to the cost of AAPAC administration. Just as a corporation is not precluded from giving incidental aid, which entails incidental expenditures, to solicitations made by a trade association (see Re: AOR 1976-63, copy enclosed), a corporate member of a trade association is not precluded from making incidental expenditures regarding administration of the trade association's separate, segregated political fund (PAC).<sup>\*</sup> Under the above described circumstances the five corporate members of the Association can pay the travel costs of the five member-directors of AAPAC, and the Association need not reimburse the corporations for those incidental costs related to the administration of AAPAC.

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<sup>\*</sup> The language of Commission regulation 114.5(b) regarding use of treasury monies for costs of establishment, administration, and solicitation of contributions to the sponsor's own separate segregated fund does not vitiate the rationale and holding that incidental expenses can be paid by a corporate member of a trade association on behalf of that association's separate segregated fund. (See Federal Election Regulations, Communication from the Chairman, Federal Election Commission, H.R. Doc. No. 95-44, 95th Cong., 1st Session 114 (1977)).

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  
Chairman for the  
Federal Election Commission

Enclosures