



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 19, 1978

AO 1978-42

Mr. John M. Power. Esq.
Foley, Hickey, Gilbert and Power
70 Pine Street
New York, New York 10005

Dear Mr. Power:

This responds to your letter of June 29, 1978, in which you request an advisory opinion on behalf of the Empire Dental Political Action Committee ("EDPAC") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act").

Specifically, you asked two questions:

1. May the Dental Society of the State of New York and its district dental societies solicit voluntary contributions to the Empire Dental Political Action Committee by the inclusion of a suggested political contribution on the membership dues statements of the societies?
2. May the Dental Society of the State of New York and its district dental societies deposit into their corporate bank account checks from their members in payment of the dues statements; portions of these checks may represent contributions to EDPAC, and such portion would then be transferred to EDPAC by separate check?

Regarding your first question, the solicitation of contributions to EDPAC by the Dental Society of the State of New York, a nonprofit corporation, and its district dental societies is permitted by 2 U.S.C. 441b(b)(4)(C). The solicitation may be conducted in conjunction with the mailing of dues statements to members of the Dental Society. See 11 CFR 114.7(f).

As to your second question, 2 U.S.C. 441b(a) prohibits any corporation from contributing to a candidate for Federal office or to a political committee established for the purpose of making contributions to candidates for Federal office. However, a separate segregated fund may be established under 441b(b)(2) and may accept voluntary contributions from individual members of the Society or any district dental society; that fund, in turn, may make contributions to candidates for Federal office and political committees subject, of course, to the contribution

limits and other requirements of the Act and Commission regulations. EDPAC is regarded as the separate segregated fund of the Dental Society whose members may be solicited and make contributions to EDPAC. Such contributions may be included with the annual membership dues of the member and transmitted by a single check payable to the district dental society.¹ This check may be deposited in a bank account of the State or district dental society. The dental societies may then remit the political contribution portion to EDPAC by separate check drawn on that same society bank account.

In concluding that the described procedure may be used, the Commission makes several assumptions on which it conditions its approval. First, the checks representing a combined dues and political contribution from a Society member are regarded as contributions received by the treasurer of EDPAC or his/her agent at the time the checks are received by any employee or representative of the State Society, or the district society in cases where it mails dues statements and receives combined dues and contribution checks directly. Thus, the political contribution portion of each number's check must be deposited into a checking account of a duly designated bank depository of EDPAC within 10 days after the check is received by the State or district society. See 103.3(a) of the Commission's regulations which implement 2 U.S.C. 437b(a).

Secondly, all records of society bank accounts in which combined dues and contributions are deposited must be made available upon Commission request pursuant to its audit authority and other general powers. 2 U.S.C. 437d, 438(a)(8). Finally, the State and district societies must maintain and make available on Commission request usual and customary accounting records of members' dues payments and other appropriate records indicating those members who make political contributions in combination with dues payments. Those records must be maintained for at least 3 years from the end of the year in which EDPAC reported a contribution from a member to whom the records relate. See 11 CFR 104.12(b).

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

Enclosure

¹ The Commission understand, and assumes for purposes of this opinion, that combined dues and political contributions will be made by Society members as individuals on individual checks drawn on personal bank accounts, not corporate accounts including professional corporation accounts. Combined dues and political contributions drawn on a corporate account which is a non-repayable drawing account of an individual Society member are not considered prohibited corporate contributions. (See the Commission's recent Notice on this subject, copy enclosed.)