



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 10, 1978

AO 1978-61

Mr. Robert D. McDonald
1666 K Street, N.W., Suite 611
Washington, D.C. 20006

Dear Mr. McDonald:

This responds to your letter of August 9, 1978, with enclosures (including a letter dated August 3, 1978, from William E. Anderson II), requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations to the solicitation of political contributions by Jerrico, Inc. ("Jerrico") or its separate segregated fund from the executive and administrative employees of its franchisees.

These letters state that Jerrico franchises and operates restaurants directly and through its wholly owned subsidiary, Long John Silver's, Inc. ("LJS").* Jerrico franchises Jerry's restaurants and through LJS franchises Long John Silver's Seafood Shoppes. The franchisees are required through their franchise agreements to comply with certain standards and policies described as "a comprehensive system for the uniform retailing of quality food and beverage products." Material breach of the franchising agreement results in immediate termination. The agreement imposes stringent restrictions on the transferability of franchises and requires Jerrico's approval for any assignment or transfer by franchisees during their life and upon their death.

The comprehensive system for retailing food and beverage products mentioned above includes many detailed specifications concerning all aspects of the operation of the restaurant. These include food preparation, handling, staffing, service and building maintenance and design. Thus the franchise agreement requires that the franchises be maintained in conformity with Jerrico's standards in adherence with their policies, practices and procedures.

You requested whether Jerrico or a separate segregated fund established by it may properly solicit contributions from the executive and administrative employees of its franchisees. It is the opinion of the Commission that Jerrico's continuing control and direction over the

* The letters indicate that as of June 30, 1978, 39 of the 75 Jerry's restaurants and 464 of the 998 Long John Silver's Seafood Shoppes are operated directly by Jerrico or LJS, its wholly owned subsidiary. It is clear that the executive and administrative personnel who operate restaurants owned and operated by Jerrico or LJS may be solicited for contributions to Jerrico's separate segregated fund. 2 U.S.C. 441b(b)(4); 11 CFR 114.5(g)(1).

business policies, practices and procedures of its franchisees, as well as the nature and extent of the franchisees' contractual obligation to Jerrico makes Jerrico and its franchisees (including LJS franchisees) affiliates within the meaning of the Act and Commission regulations. See Advisory Opinion 1977-70, copy enclosed. Accordingly, the Commission agrees that Jerrico may solicit contributions to its separate segregated fund from the executive and administrative personnel of Jerrico's and LJS's franchisees and their families. 11 CFR 114.5(g)(1); see also 114.1(c). In conducting these solicitations, Jerrico or its fund must conform to the procedures set forth in Commission regulations for the solicitation of executive and administrative personnel. 11 CFR 114.5(a). If any franchisee of Jerrico or LJS establishes a separate segregated fund, the rule against proliferation of political committees, 2 U.S.C. 441a(a)(5), and Commission regulations on contributions of affiliated committees, would apply. See 11 CFR 110.3.

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