



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

December 15, 1978

ADVISORY OPINION 1978-83

Mr. Steven R. Semler, Treasurer  
Construction Equipment Political Action Committee  
1101 15th Street, N.W.  
Suite 1010  
Washington, D.C. 20005

Dear Mr. Semler:

This letter is in response to your request of October 16, 1978, for an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to the establishment of a booth by a political committee at the annual convention of its connected trade association.

In your letter, you state that the Construction Equipment Political Action Committee ("CEPAC") is an "independently conceived" political committee within the meaning of the Commission's regulations. CEPAC cooperates with an established trade association of construction equipment distributors known as the Associated Equipment Distributors\* -- a group of approximately 900 equipment distributors in the United States. Accordingly, CEPAC attempts to conduct itself in accordance with the requirements applicable to political committees that are connected to trade associations.

In the present situation, attention is focused upon 11 CFR 114.8 which deals with advance written approval by corporate members of a trade association for solicitation of executive and administrative personnel of the corporate members. CEPAC desires to establish a booth at the Associated Equipment Distributor's annual convention to be held in January, 1979. The purpose of the booth, which will be staffed by CEPAC directors, would be (i) to inform distributors about the existence and purpose of CEPAC and answer distributors' questions about CEPAC; (ii) to give to each inquirer a written brochure which describes CEPAC, together with a blank form authorizing solicitation; (iii) to collect signed authorization cards from distributors who decide to sign them at the booth, and transmit those cards to CEPAC's offices for subsequent written solicitation of the signer; and (iv) to express a willingness, only after an

---

\* This trade association is identified on CEPAC's FEC Form 1, Statement of Organization, as a connected organization of CEPAC. 11 CFR 100.15

authorization card is signed, to accept personal contributions from those distributors who wish to make a contribution while they are at the booth.

The following guidelines as to the operation of the booth are also set forth:

1. The sign identifying the booth would be unobtrusive and not directly or indirectly request or imply a solicitation of contributions.
2. The booth would not sell promotional items of any kind.
3. All inquirers would be tendered a brochure which explains the purpose of CEPAC, the authorization form requirements, and a blank authorization form for them to fill out if they care to do so.
4. Authorization forms would be accepted only from corporate officers empowered to authorize solicitations in behalf of their corporations.
5. Inquirers would be told that they are welcome to mail the form to CEPAC if they choose to sign it, or that they could fill it out and turn it in at the booth.
6. Persons who choose to fill out the card and turn it in at the booth may be told that they would be individually receiving in the mail a written request for a contribution from CEPAC but that, if they cared to make an individual personal contribution at the booth, it would be accepted; that, in such case, there would not be a subsequent written request mailed to them. It would be emphasized to all those operating the booth that no reference to soliciting contributions shall be made to any inquirer unless and until an appropriate corporate officer has signed an authorization form; that absent the tendering of that form, no contribution request would be directly or indirectly made. Contributions would only be requested from executives and administrative personnel of corporations which have actually submitted authorization forms -- a matter easily verified from the existence of an authorization form signed by a competent corporate official and from the list of persons on that form who are within the class of persons appropriate for solicitation.

CEPAC therefore requests an advisory opinion as to whether the establishment and operation of a booth at the Associated Equipment Distributors' annual convention, in the described circumstances, is permissible under the Act and regulations.

You state that the primary purpose of the convention booth is to secure a corporate executive's signature on special authorization forms which would allow CEPAC to solicit the personnel of that corporate member of the trade association. You believe this would satisfy the requirements of 11 CFR 114.8(d) of knowing and specific written approval by member corporations -- a necessary prerequisite before any solicitation of contributions by a trade

association's separate segregated fund can be made of a corporate member's executive and administrative personnel.

The 1979 authorization form to be used would presumably have the same information as CEPAC's 1978 authorization form (enclosed with your letter). Commission regulations require that solicitation approvals be made in writing and preserved for 3 years by the trade association or its political fund. 11 CFR 114.8(d). The regulations also provide for mailing the request for solicitation approval to corporate members, obviously implying that such request must be in writing. Specifically, the request form must indicate the requirement of approval and the limitation that the corporate trade association member may not approve solicitation by the association or its political fund if it has previously approved a solicitation by any other trade association during the calendar year. See 11 CFR 114.8(d)(3). The authorization form should also clearly state its purpose and state any limitations that CEPAC wishes to place on the class of executive and administrative personnel of the member corporation who may be solicited. See 11 CFR 114.8(d)(5).

Assuming the above criteria are met, a convention booth to collect signed authorization cards is permissible, provided (i) that the solicitation approval request is in writing to insure that an informed decision has been reached, and (ii) that the request form has been signed by a person duly authorized by his or her respective corporation to give such written approval. See in general 11 CFR 114.8. The primary purpose of the booth as expressed in your request, is therefore consistent with the Act and Commission regulations.

Your request further states that the "secondary purpose" of the booth is to accept contributions from those persons who have signed the cards, as well as other executive and administrative personnel listed on signed authorization forms who thereafter wish to make contributions. Contributions from these persons would be requested by the CEPAC directors operating the booth, but only after individuals have been identified as executive and administrative personnel of corporations that have already submitted signed authorization forms. You point out that the names of those who may be solicited would be easily verified from authorization forms and lists held at the booth.

The above described circumstances surrounding the collection of contributions, particularly the fact that only those personnel who are properly solicitable by CEPAC will be requested to make contributions, satisfy the solicitation restrictions of 11 CFR 114.8. In Advisory Opinion 1978-17 the Commission recognized that the restrictions on trade association political committees were intended: "to control their access to the same persons who might otherwise be solicited and contribute to several political committees connected to separate trade associations. By requiring advance solicitation approval, and limiting approval by corporate members of a trade association to one trade association per year, the fundraising potential of the trade association committee is limited." Therefore the secondary purpose of the booth -- to request and accept contributions from those personnel authorized to be solicited by CEPAC -- is permissible in the above described circumstances if otherwise conducted in accordance with the Act and Commission regulations. See, in particular 11 CFR 114.5(a) and (b) and 102.9.

The foregoing conclusion as to the secondary purpose of the booth is conditioned on avoidance of any reference to the CEPAC booth in preconvention mailings to executive and administrative personnel whose corporations have not approved their solicitation for 1979. Also, conspicuous signs and other promotional activity at the convention which would be considered a CEPAC solicitation should be displayed and conducted so that only the persons who may be legally solicited are in fact solicited. These conditions are indicated in Advisory Opinion 1976-27 (copy enclosed). In addition, any announcement of CEPAC fundraising activities at convention meetings, or informing convention attendees that CEPAC solicitation materials are available at a booth in the convention hall, would be a solicitation (as distinguished from an effort to obtain approval to solicit contributions) within the meaning of the Act, and would therefore require prior approval from the corporate members. See Advisory Opinion 1976-96 (copy enclosed).

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