



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 31, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-38

Mr. V. Bruce Whitehead
Corporate Counsel
Hardee's Food Systems, Inc.
1233 N. Church Street
Rocky Mount, North Carolina 27801

Dear Mr. Whitehead:

This responds to your letter of July 3, 1979, with enclosure, 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 from executive and administrative employees of Hardee's licensees or franchisees by Hardee's Good Government Fund, ("the Fund") the political Action committee of Hardee's Food Systems Inc. ("the Corporation").

Your letter indicates that Hardee's restaurants are operated by licensees or franchisees of the Corporation in strict accordance, as required by the licensing agreement, with certain standards and policies known as the "Restaurant Plan." The agreement requires that the licensee devote full time to the operation of the restaurant, imposes severe restrictions on the transferability of licenses, and requires Hardee's approval of any assignment or transfer by licensees during their life and upon death or permanent incapacity.

The comprehensive system under which Hardee's operates details extensive specifications concerning all aspects of the building and operation of the Hardee's restaurants. You state that, in effect, the licensing agreement requires compliance with all business policies, practices and procedures imposed by Hardee's.

You state your belief that Hardee's Food Systems, Inc., and its licensees are affiliates within the meaning of the Act and ask whether the Fund may solicit contributions from executive and administrative employees of Hardee's licensees.

The Commission is of the opinion that the Corporation's continuing control and direction over the business policies, practices, and procedures of its licensees, as well as the nature and extent of the licensees' contractual obligation to the Corporation, make Hardee's and its licensees affiliates within the meaning of the Act and Commission regulations. See Advisory Opinions 1978-61 and 1977-70, copies enclosed. Accordingly, the Commission concludes that Hardee's Good Government Fund may solicit contributions from the executive and administrative personnel of Hardee's licensees and their families. 11 CFR 114.5(g)(1); see also 114.1(c). In conducting these solicitations, the 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 licensee of Hardee's establishes a separate segregated fund or a political committee, the rule against proliferation of political committees, 2 U.S.C. 441(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)

Robert O. Tiernan
Chairman for the
Federal Election Commission

Enclosures