



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 18, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-75

Mr. Richard D. McLellan
McLellan, Schlaybaugh & Whitbeck
818 Michigan National Tower
Lansing, Michigan 48933

Dear Mr. McLellan:

This responds to your letter of December 4, 1979, on behalf of the Associated Builders and Contractors Political Action Committee ("ABC-PAC") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to combined Federal/state fundraising activity by ABC-PAC.

ABC-PAC is the separate segregated fund of the Associated Builders and Contractors, Inc. ("ABC"). You state that ABC is a national not-for-profit incorporated trade association whose membership is composed primarily of corporate contractors or builders. You add that there are also individual or partnership members of ABC. ABC has affiliated with it local ABC Chapters and state-level chapters in some, but not all, states. The affiliated chapters are not-for-profit corporations.

Some of the local chapters and state chapters have established political action committees to support state and local candidates ("Chapter PACs"). These political action committees do not support Federal elections or Federal candidates, but rather confine their activities to the support of local and state elections and candidates. While some chapters have established other political action committees which do support Federal candidates and committees, such other chapter committees are separate from Chapter PACs described above and will not participate in a combined Federal/state fundraising program contemplated by ABC-PAC.¹

Under this program ABC-PAC and the Chapter PACs propose to solicit political contributions from individual ABC members and from the stockholders and executive or

¹ The Commission notes the application of the Act, and in particular 2 U.S.C. 441a(a)(5), to the described "Chapter PACs" to the extent their activities are not confined to local and state elections and candidates but also extend to Federal elections.

administrative personnel of the member corporations of ABC and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation as required by Federal law. 2 U.S.C. 441b(b)(4)(D), 11 CFR 114.8.

Combined fundraising campaigns will be conducted under a written agreement which will provide that voluntary non-corporate contributions received will be divided between the Chapter PAC and ABC-PAC on a 2/3 -1/3 basis and that no part of the contributions received by the Chapter PAC will be used to support Federal elections or candidates for Federal office. All solicitation materials used in the fundraising campaign will give complete information as to the agreed allocation of contributions for state and Federal purposes. Contributors will be informed that the Federal portion of their contribution is charged against the applicable limits of 2 U.S.C. 441a.

The deposit of monies collected in the combined fundraising campaign to the accounts of either ABC-PAC or the Chapter PACs will be done according to the following procedure for receiving and allocating the monies:

- a. All monies collected in the joint fundraising effort pursuant to the agreement will be deposited in a special account in a bank agreed upon by the Chapter PAC and ABC-PAC.
- b. The bank will be provided with escrow instructions directing it to divide all contributions deposited with it between the Chapter PAC and ABC-PAC on a 2/3 - 1/3 basis.
- c. Pursuant to such instructions, the bank will transfer to the designated Chapter PAC account, the portion of the contribution due the Chapter PAC and will transfer to ABC-PAC account the portion of the contribution due ABC-PAC.
- d. ABC-PAC will report to the Federal Election Commission the names of each contributor and the dollar amount received by ABC-PAC from such contributor (1/3 of total contribution).
- e. The special bank accounts to be used to divide funds between the Chapter PACs and ABC-PAC will be designated by ABC-PAC on its Statement of Organization as escrow depository accounts with full identification of each bank where such an account is established and used.
- f. The agent or other representative of ABC-PAC will be required to deposit all contributions in the special escrow account within 10 days from the date of receipt of the contributions. ABC-PAC will recognize receipt of each contribution for recordkeeping and recording purposes on the day it comes into the possession of an agent, or other designated ABC-PAC representative in the participating state, rather than when a bank transfer is

received into ABC-PAC's depository from a state escrow depository account. The state receiving agent, or other state ABC-PAC representative, will be required to furnish ABC-PAC headquarters the required identification of each contributor whose allocated Federal contribution to ABC-PAC exceeds \$100.²

You ask whether this combined Federal/state fundraising program is permissible under the Act and Commission regulations. The Commission concludes that nothing in the Act or the Commission's regulations would prohibit ABC-PAC from conducting the fundraising under the procedures outlined in your letter. The proposal as described in your letter is materially indistinguishable from a similar fundraising plan which the Commission approved in Advisory Opinion 1977-20. (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)

Robert O. Tiernan
Chairman for the
Federal Election Commission

Enclosure (AO 1977-20)

² The Commission notes that as a result of the Federal Election Campaign Act Amendments of 1979, Public Law 96-187, effective January 8, 1980, only those individuals whose contributions to ABC-PAC aggregate more than \$200 during a calendar year need to be identified in ABC-PAC reports giving full name, mailing address, occupation and name of employer. In addition under the 1980 Amendments, the treasurer of ABC-PAC must keep an account including the name and address of any individual who makes a contribution in excess of \$50 to ABC-PAC. See 102 and 104 of the 1980 Amendments which amend 2 U.S.C. 432, and 434, respectively.