



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 9, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-6

Mr. David R. Cassidy
D'Amico & Curet
610 State National Life Building
263 Riverside Mall
Baton Rouge, Louisiana 70801

Dear Mr. Cassidy:

This responds to your letter of January 18, 1980, as supplemented by your letter of March 17, 1980, requesting an advisory opinion on behalf of the Louisiana Farm Bureau Federation, Inc. ("Farm Bureau") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposed method of collecting contributions to a separate segregated fund.

The request states that the Farm Bureau is considering the establishment of a separate segregated fund to be called Agripac.¹ A proposed method of collecting contributions to Agripac is set forth, and you ask whether that method is, permissible under the Act. You also ask whether an individual who is a stockholder in a small, closely held corporation may pay his dues and political contributions with a corporate check.

¹ It should be noted that the Federal Election Campaign Act Amendments of 1979, Public Law 96-187, effective January 8, 1980, require that the name of any separate segregated fund established pursuant to 2 U.S.C. 441b include the name of its connected organization. 2 U.S.C. 432(e)(5). Thus, the name "Agripac" would not be acceptable as the official committee name. See Commission regulation 102.14(c) at 45 Fed. Reg. 15108(March 7, 1980); also see Advisory Opinions 1980-23 and 1980-10 (copies enclosed).

According to the proposal, the central office of the Farm Bureau will bill its individual members² for annual dues. Added to this amount will be a certain specified sum that will be designated for the separate segregated fund. If the individual Farm Bureau member wishes to contribute to Agripac he will remit the entire amount that was billed. If he does not wish to contribute to Agripac, he will remit the entire bill and request that the certain specified sum be refunded to him. All monies will go directly to the central office. There the monies will be placed in a checking account from which disbursements will be made to the separate segregated fund, to the members asking for refunds, to the local farm bureaus, and to the central farm bureau. Only dues and contributions will be received in this account and the only disbursements made from it will be those stated above. The account will be reconciled monthly, and all dues and contributions received during that month will be disbursed shortly after the reconciliation of the account.

The Commission concludes that the method proposed is not permissible since it relies upon billing and requiring payment of a specified amount for the political contribution rather than merely stating a suggested guideline for the amount of the political contribution. Although solicitation of contributions to the separate segregated fund by the Farm Bureau and its local bureaus is permitted by 2 U.S.C. 441b(b) (4)(C), Commission regulations at 11 CFR 114.7(g) subject a corporation without capital stock, such as the Farm Bureau, and its separate segregated fund to the provisions in 11 CFR 114.5(a). In turn 114.5(a)(2) permits a corporation to suggest a guideline for contributions to its separate segregated fund. However, the corporation must inform the solicitee that the guideline is merely a suggestion and that the person is free to contribute more or less than the suggested guideline. Under your proposed methods, a member is billed and required to remit a "certain specified sum" designated for Agripac. Billing a member in this manner does not comply with the conditions set forth in 114.5(a)(2). See also 11 CFR 114.5(a)(2)-(5) regarding information required in a solicitation.

Since the proposed method of collecting contributions is impermissible, it is unnecessary to discuss the proposed procedures for separating political contributions and membership dues payments. For your information, however, see Advisory Opinions 1978-42, 1979-68, and 1979-19 (copies enclosed) which concern methods of collecting political contributions and membership dues or convention fees via a single check from the payor/contributor. See also 102.8 and 103.3(a) of the Commission's prescribed regulations³ which implement 2 U.S.C. 432(b) and 432(h)(1) regarding the number of days in which the political contribution portion of each member's check must be forwarded to the treasurer and deposited into a checking account of the separate segregated fund.

Your second question asked if it is permissible for an individual who is stockholder in a small, closely held corporation to pay his dues and political contributions with a corporate check. Under the Act it is unlawful for any corporation to make any contribution, whether direct or indirect, to a candidate for Federal office or to a political committee established for the purpose of making contributions to candidates for Federal office. 2 U.S.C. 441b(a). An officer or

² According to the supplemental letter, Farm Bureau membership consists of individuals as well as corporations, although corporations make up no more than 10% of the membership. The letter further indicates that the proposed billing procedure would be followed with respect only to individual members.

³ These regulations are published respectively at 45 Fed. Reg. 15106, 15108 (March 7, 1980)

stockholder of a corporation may make a contribution in his/her individual capacity from personal funds but not from any corporate funds. The Commission when addressing situations of payment of a political contribution and membership dues in a single check, approved individual checks drawn on personal bank accounts but not corporate accounts including professional corporation accounts. The one exception to that was a check drawn on a corporate account which is a non-repayable drawing account of an individual member. Such checks are viewed as representing political contributions by the individual who has the account and are not considered prohibited corporate contributions. If the corporate check is drawn on a corporate account other than an individual's non-repayable drawing account, it is a prohibited corporate contribution. See Advisory Opinions 1979-19 and 1978-42.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely yours

(signed)

Robert O. Tiernan
Chairman for the
Federal Election Commission

Enclosures