



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 4, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-7

Mr. Michael Roster
McKenna & Fitting
3435 Wilshire Boulevard
Los Angeles, California 90010

Dear Mr. Roster:

This responds to your letter of January 16, 1980, requesting an advisory opinion on behalf of your clients the California Savings and Loan League, Central Federal Savings and Loan Association ("Central Federal"), and Central Capital Corporation ("Central Capital") regarding application of the Federal Election Campaign Act of 1971, as amended (the "Act"), to a wholly owned subsidiary of a federally chartered association.

According to your request, Central Federal is a federally chartered association organized and operating under Federal law. Central Capital is a state-chartered corporation. It is a wholly owned subsidiary of Central Federal. You state that state-chartered corporations, including state-chartered banks and savings and loan associations, are permitted under California law to make contributions to candidates for State and local political office. You also acknowledge that pursuant to 2 U.S.C. 441b, a corporation organized by authority of any law of Congress, such as a federally chartered savings and loan association or a national bank, is prohibited from making contributions or expenditures in connection with any election for any political office, whether Federal, state, or local.

In light of 2 U.S.C. 441b you ask two questions. First, does the prohibition of 2 U.S.C. 441b regarding the inability of a federally chartered corporation, in this situation Central Federal, to make a contribution or expenditure in connection with any election for political office apply to a wholly or partially owned subsidiary of such corporation, such as Central Capital. Second, "is a holding company which controls a Federal savings and loan association subject to the

prohibitions of 2 U.S.C. 441b regarding a federal corporation? Would a subsidiary of such a holding company be subject to such prohibitions?"

As previously mentioned, as a state-chartered corporation Central Capital is allowed under California law to make contributions to candidates for state and local political office. Although 2 U.S.C. 441b prohibits a federally chartered corporation from making contributions or expenditures in connection with an election for any political office, there is no language in the statute indicating that the prohibition extends to subsidiary corporations which are not themselves federally chartered corporations.

Generally, a subsidiary corporation is considered a distinct legal entity, an entity in its own right, apart from its parent. However, where circumstances are such that one corporation is merely an agent, instrumentality, or alter ego of another corporation the notion of separate corporate existence of parent and subsidiary will not be recognized. See 18 AM. JUR. 2d Corporations §17 for a discussion of parent and subsidiary corporations.

In view of the general rule regarding parent-subsidiary corporations, and the Act's failure to expressly extend the prohibitions on federally chartered corporations to their state chartered subsidiary corporations, the Commission concludes that absent circumstances which would result in characterizing Central Capital (the subsidiary state-chartered corporation) and Central Federal (the parent federally chartered corporation) as one entity, Central Capital would not be subject to the prohibition of 441b governing federally chartered corporations. See the Commission's response to Advisory Opinion Request 1976-19, copy enclosed. Of course, Central Capital is still subject to the general prohibition in 441b that applies to "any corporation whatever."

The Commission may not issue an opinion regarding your second question since it is not apparent that the question concerns a specific transaction or activity by the requesting parties.

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

Enclosure (AO 1976-19)