



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 22, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-133

Mr. Sheldon M. Charone
Carmell & Charone Ltd.
39 South LaSalle Street
Chicago, Illinois 60603

Dear Mr. Charone:

This responds to your letter dated November 5, 1980, requesting an advisory opinion on behalf of Central States Joint Board International Union of Allied, Novelty and Production Workers, AFL-CIO ("the Joint Board"), concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to certain proposed activity by the Joint Board.

You state that the Joint Board is an international labor organization composed of several local labor organizations. Each local labor organization has individual members who are required to pay monthly dues. These dues are transmitted to the Joint Board through the local labor organizations.

The Joint Board proposes to offer its individual members the choice of having \$1.00 of their monthly dues required by the Joint Board to be transferred as a voluntary contribution to a separate segregated fund. The member could voluntarily contribute to either the Joint Board's political action committee or to another political action committee. You state that the purpose of the proposed procedure is "to encourage members to voluntarily participate in a PAC" and you ask specifically whether the proposed plan to encourage such activity is permissible under the Act and regulations.

The Act and Commission's regulations provide that a separate segregated fund may not make a contribution utilizing money or anything of value secured by physical force, job discrimination, financial reprisals; or by dues, fees, or other monies required as a condition of membership in a labor organization. See 2 U.S.C. 441b(b)(3)(A); 11 CFR 114.5(a)(1). Under the proposed procedure described in your request, individual members of the Joint Board would

have the option of designating or earmarking a portion of their monthly dues payment to a political action committee without increasing the total amount paid by the member as required dues. An individual member could choose not to contribute in the described manner but he would be required to remit the full amount of dues. Thus, it appears that members who authorize \$1.00 of their dues payment to be transferred to a political action committee would not be making a voluntary contribution of their own funds since the amount of their dues is fixed and payable to the Joint Board in any event. In effect, the funds which a member may authorize to be transferred would actually be part of a member's dues payment and would result in a transfer from the general treasury funds of the local labor organization. See Advisory Opinion 1980-27, copy enclosed.

The Commission's regulations at 11 CFR 114.5(b) provide that a labor organization may not use the solicitation of voluntary contributions from its members as a means of exchanging treasury, monies for voluntary contributions. The Commission concludes therefore, that the proposed procedure as described could be characterized as diverting general treasury funds to a separate segregated fund which transfer would violate the provisions of the Act and Commission regulations.

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

Sincerely yours,

(signed)

John W. McGarry
Vice Chairman for the
Federal Election Commission

Enclosure (AO 1980-27)