



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 14, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-19

Ms. Kathy Ivens
Campaign Manager
Wendell Young for Congress Committee
8910 Frankford Avenue
Philadelphia, Pennsylvania 19136

Dear Ms. Ivens:

This responds to your letter dated February 21, 1980, as supplemented by your letter dated February 27, 1980, in which you request an advisory opinion on behalf of the Wendell Young for Congress committee ("the Committee") with regard to application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to the sale of a poll by the Committee to a labor organization.

You state in your request that Wendell Young is a candidate for the House of Representatives from the Fourth Congressional District of Pennsylvania and is also President of Local 1357 of the United Food and Commercial Workers Union. In January, 1980, the Committee entered into a contract with a professional polling company whereby the polling company would conduct a poll of registered voters in Pennsylvania's Fourth Congressional District. The poll, which was performed by the staff of the polling firm, dealt with candidate recognition and issues primarily devoted to voter attitudes on labor unions. You state that the cost of the poll was \$9,400 and was paid for by the Committee.

You indicate that the International Office of the United Food and Commercial Workers is interested in organizing in the Philadelphia area and wishes to purchase the results of the poll from the Committee with general operating funds of the labor union although it does not wish to make a contribution. Specifically, you ask whether it would be permissible for the Committee to sell the poll to a labor organization under the circumstances described.

The Commission is of the opinion that the Committee may not sell the poll to the International Office of the United Food and Commercial Workers Union. Under the Act and

Commission regulations, a labor organization is prohibited from making a contribution in connection with any Federal election. See 2 U.S.C. 441b and 11 CFR 114.2(b). Section 441b(b)(2) defines a "contribution" to mean, in part, "any payment, ... or gift of money or anything of value ..." to a campaign committee, or a political party or organization, in connection with any Federal election. The sale of the poll by the Committee and the resulting payment by the labor union would clearly fall within the definition of "contribution" at 2 U.S.C. 441b(b)(2). See Advisory Opinion 1979-76 (copy enclosed), in which the Commission held that the proceeds from the proposed sale of books by a political committee to a corporate purchaser would result in a corporate contribution and was therefore impermissible under 2 U.S.C. 441b. Compare Advisory Opinions 1979-24 and 1979-18, copies enclosed. See also 11 CFR 106.4(b) which provides that the purchase of opinion polls whose results are made available to a candidate becomes a contribution to that candidate by the purchaser.

To allow the labor organization to purchase the poll from your committee would allow the Committee to recoup its costs for the poll while still receiving the benefit of the information produced by the poll and would thereby allow the labor organization to pay the cost of the poll on behalf of the Committee in violation of 2 U.S.C. 441b. Further, it would allow the labor organization to make a prohibited payment to a political committee. 2 U.S.C. 441b(b)(2).

Therefore, the Commission concludes that any payment by the International Office of the United Food and Commercial Workers Union to your committee for a poll would result in an impermissible labor organization contribution which the Committee would be precluded from accepting under the Act and Commission regulations. 2 U.S.C. 441b, 11 CFR 114.2(c).

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 (AO 1979-76, AO 1979-24, AO 1979-18)