



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

April 28, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-27

Mr. Carl Weissburg  
Weissburg and Aronson  
32nd Floor, Two Century Plaza  
2049 Century Park East  
Los Angeles, California 90067

Dear Mr. Weissburg:

This responds to your letter of March 12, 1980 on behalf of the Federation of American Hospitals ("FAH") requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposed fundraising procedure.

Your letter states that FAH is an incorporated trade association having both corporate and individual (personal) members. FedPac is its separate segregated fund.\* You state that FAH wishes to offer its personal members the right to direct a portion of their membership dues to FedPac. Under the proposed procedure, personal members of FAH would be advised, when their membership dues were payable, that they had an option to direct not more than a fixed percentage of those dues to FedPac as a "contribution" rather than as a dues payment to FAH. The address to which the contributions could be sent would be specified, and the members would be informed that their dues would be considered fully paid when FedPac informed FAH of the receipt of the contribution from the particular member, and when payment of the balance (representing dues monies) had been received by FAH. You ask whether this procedure is permissible under the Act and Commission regulations.

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\* The Commission notes that 2 U.S.C. 432(e)(5) requires that the name of any separate segregated fund established pursuant to 441b(b) shall include the name of its connected organization. Commission regulations state that such fund may, however, use a clearly recognized abbreviation or acronym by which the connected organization is commonly known. Both the full name and such abbreviation or acronym shall be included on the fund's Statement of Organization, on all reports filed by the fund, and in all notices required by 441d. See 11 CFR 102.14. See also Advisory Opinions 1980-10, and 1980-23, copies enclosed. An appropriate change in FedPac's name as required by 432(e)(5) must be filed within ten days. 2 U.S.C. 433(c).

Under the Act, it is unlawful for any corporation to make a contribution or expenditure, whether direct or indirect, in connection with a Federal election. 2 U.S.C. 441b. While Commission regulations permit any corporation to use its general treasury funds, including dues monies or membership fees, for the establishment, administration, and solicitation of contributions to its separate segregated fund, the corporation may not use this process as a means of exchanging treasury monies for voluntary contributions. 11 CFR 114.5(b).

Under the described procedure, members of FAH would earmark a portion of their dues payment to FedPac without increasing the total amount paid by the member for dues. In effect, the money is diverted from FAH's general treasury by means of the designation made by the members. The members who have voluntarily authorized part of their dues payment to go to the political fund are not thereby making voluntary contributions of their own funds since the amount of their dues is fixed and payable to FAH in any event. Because the effect of this procedure is to allocate treasury funds to a separate segregated fund to be used in connection with Federal elections, the Commission concludes that the procedure is prohibited under 2 U.S.C. 441b(a) and 114.2(b) of the regulations. See also Barber v. Gibbons, 367 F.Supp. 1102 (E.D. Mo. 1973).

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 1980-10 and AO 1980-23)