



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 16, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-39

Susan A. Myers
Fluor Public Affairs Committee
3333 Michelson Drive
Irvine, California 92730

Dear Ms. Myers:

This responds to your letter of April 8, 1980, requesting an advisory opinion on behalf of the Fluor Public Affairs Committee ("Fluor-PAC") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the investment of its funds in an investment trust.

In your letter you state that the foregoing committee is a multicandidate committee which administers a separate segregated fund established by the Fluor Corporation. Fluor-PAC's treasurer maintains a checking account in a state bank which he has designated as the PAC's campaign depository. All receipts are deposited into that account and all disbursements are made out of that account. From time to time, the balance in that account is substantial. In order to maximize the return on investment of its funds, Fluor-PAC now intends to invest in the Fidelity Daily Income Trust, an open-end, diversified investment trust which is a professionally managed money market fund.

Your first question asks whether the Act permits Fluor-PAC to transfer funds from its campaign depository into the investment trust for investment purposes. The Commission concludes that such a transfer is permissible. Under 11 CFR 103.3, funds may be transferred from a committee campaign depository for investment purposes. In Advisory Opinion 1975-41 (copy enclosed), the Commission held that a political committee may transfer campaign funds into an interest-bearing savings account in a State and/or national bank or may invest such funds in Government treasury notes. In Advisory Opinion 1976-25 (copy enclosed), the Commission further held that such funds may be invested at a savings and loan association which is not a

national or State bank. Similarly, Fluor-PAC's proposed investment of its funds in an investment trust is permissible.

Moreover, funds transferred by Fluor-PAC to the investment trust must be returned to the campaign depository before such funds may be used to make expenditures. 11 CFR 103.3(a). Transfers out of the depository into the investment trust do not constitute expenditures by Fluor-PAC under 11 CFR 100.8 but rather represent a conversion of one form of "cash on hand" to another. Thus, Fluor-PAC must include those funds invested in the trust in the total amount reported as "cash on hand" pursuant to 11 CFR 104.3(a)(1). See Advisory Opinion 1975-41. Income earned by Fluor-PAC on its investment must be reported as a receipt. 2 U.S.C. 434(b)(2)(J) and (b)(3)(G); Advisory Opinion 1976-25.

Your second question asks whether Fluor-PAC must amend its Statement of Organization to designate the investment trust as an additional campaign depository. The Commission concludes that such designation is not required. Under 11 CFR 103.2, political committees must designate one or more State banks, federally chartered depository institutions, or depository institutions the depository accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository(ies). If a political committee invests its funds in a savings account in one of the categories of institutions listed in 103.2 of the regulations, then the committee must amend its Statement of Organization to designate that institution, if different than those already listed, as an additional campaign depository. 2 U.S.C. 433(b)(6), 11 CFR 102.2(a)(1)(vi); see also Advisory Opinion 1976-25. As the investment trust does not fall within any of the categories of institutions listed in 103.2, Fluor-PAC is not required to designate it as an additional campaign depository.

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 1975-41, AO 1976-25)