



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

September 3, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-51

Virgil H. Moore, Jr.  
President  
First Farmers and Merchants National Bank of Columbia  
Columbia, Tennessee

Dear Mr. Moore:

This responds to your letter of April 25, 1980, and your supplemental letter of August 5, 1980 requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to services rendered by an employee of First Farmers and Merchants National Bank ("the bank") on behalf of a political campaign organization.

Your April 25 letter states that various political organizations, clubs, and/or groups maintain deposit accounts in the bank. An employee of the bank has been requested by a political campaign organization to act as treasurer for the organization. Your August 5 letter states that the duties of the treasurer involve the acceptance of donations in the form of cash and checks for deposit into a demand account at the bank in the name of the political organization. In addition, the treasurer would have the responsibility of writing checks on the account to pay campaign expenses; reconciling the bank account and making the required accounting reports to executives of the campaign organization.

Your August 5 letter explains that the bank employee serving as treasurer of the political organization will devote approximately one hour of bank time each week for a ten week period for routine accounting and bookkeeping responsibilities in handling the campaign fund account. You add that the political organization will have newspaper advertisements regarding the candidate's campaign with the notation that the advertisement has been paid for by "John Banker, [actual name will be used], Treasurer of ... Campaign Fund.". You estimate that approximately twelve times during the ten week period the treasurer bank employee will sign these newspaper advertisements. He will also be identified accordingly as "treasurer" for radio spot announcements broadcast during the campaign.

Under these circumstances, you ask whether the bank by permitting the employee, upon his request, to engage in such activity, is in violation of the Act or Commission regulations.

It is unlawful under the Act for any national bank to make any contribution or expenditure in connection with any election to any political office. 2 U.S.C. 441b(a) and 11 CFR 114.2(a). Subject to the rules and practices of the bank, however, an employee, as an individual volunteer and not as a bank employee being compensated for such political activity, is permitted to make occasional, isolated, or incidental use of the facilities of the bank for the employee's own individual volunteer activity in connection with an election. The employee is required to reimburse the bank only to the extent that the overhead or operating costs of the bank are increased. 11 CFR 114.9(a). "Occasional, isolated, or incidental use" is defined under Commission regulations to mean an amount of activity by the employee during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such period. 11 CFR 114.9(a)(1)(i). Such activity which does not exceed one hour per work week or four hours per month is considered as "occasional, isolated, or incidental use" of the facilities. 11 CFR 114.9(a)(1)(iii).

Accordingly, the Commission concludes that so long as the activity of the bank employee is volunteer activity undertaken on an "occasional, isolated, or incidental" basis\*, such activity would not constitute a prohibited campaign contribution by the bank. Any payment by an employee pursuant to 11 CFR 114.9(a) for use of such facilities would be considered a contribution in kind from that employee to the political organization, and if the political organization is a "political committee" as defined in the Act, the in-kind contribution would have to be reported by the political committee pursuant to 2 U.S.C. 434.

The Commission expresses no opinion as to the possible application of the rules of the Comptroller of the Currency to the described situation, since those issues are outside the Commission's jurisdiction.

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\* An employee who makes more than occasional, isolated, or incidental use of the bank's facilities for individual volunteer activities in connection with an election is required to reimburse the bank within a commercially reasonable time for the normal and usual rental charge as defined in 11 CFR 100.7(a)(1)(iii)(B), for use of such facilities. Failure to make the required reimbursement would result in a contribution in kind by the bank to the political organization. The reimbursement could, however, be made by the political organization itself, subject to the cited regulations.

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)

Max L. Friedersdorf  
Chairman for the  
Federal Election Commission