



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 24, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-69

Myron E. Sildon, Esq.
Myron E. Sildon Associates
2800 City Center Square
1100 Main Street
Kansas City, Missouri 64105

Dear Mr. Sildon:

This responds to your letter of June 2, 1980, in which you request an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended, ("the Act"), to certain proposed activities of the Hoisting and Portable Engineers Local Union 101 ("the union") and its political action committee, the 101 Political Fund.¹

Your letter states that you have redrafted a Contribution Direction Authorization form which had been previously submitted by your co-counsel, Mr. Coulter deVries, to comport with the mandates of Advisory Opinion 1979-60, which was issued upon the direct request of Mr. deVries. You further indicate that the facts in regard to this opinion remain as detailed by Mr. deVries in his letters of October 4 and 19, 1979 (Advisory Opinion Request 1979-60).

Mr. deVries has stated in AOR 1979-60 that in order to solicit funds from union members for the 101 Political Fund, the union proposes to allow an individual union member to sign an authorization card permitting the deduction of 5 cents per hour worked from vacation fund monies. These vacation monies are paid automatically to the union as trustee for each union member by the employing contractors pursuant to the collective bargaining agreements in effect in the area. He has stated further that the vacation fund is in no way connected with union dues,

¹ 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.

assessments or any other general treasury funds of the union. It is a separate escrow account supervised and collected by the union on behalf of its membership, and the 75 cents per hour deduction which is deposited in the account for each union member is paid out to each member annually including interest earned on his portion of the account. He has also stated that a "transfer from the vacation fund would be made directly from the vacation fund account to the separate segregated fund maintained by the 101 Political Fund."

In Advisory Opinion 1979-60, the Commission concluded that the Vacation Fund would be a permissible source of voluntary contributions under the Act if the deduction authorization card was modified to state that the amount of 5 cents per hour was only a suggested amount and that members may authorize an amount more or less than 5 cents per hour. This information was needed to comply with Commission regulations at 11 CFR 114.5(a)(2). You now ask whether the redrafted Contribution Direction Authorization form sample which you have provided corrects the deficiencies mentioned in Advisory Opinion 1979-60.

The redrafted form contains the following:

I authorize the Operating Engineers Local 101 Vacation Fund to direct to the Local 101 Political Action Committee contributions paid on my behalf to the Vacation Fund by my employers. Local 101 has suggested a contribution guideline of 5 cents per hour worked and reported before April 1, 1983 and 7 cents per hour worked and reported after March 31, 1983. I fully understand that this guideline is merely a suggestion and that I can contribute more or less, and that the union can not favor or discriminate against me based upon my decision. I also understand that my contribution will be paid into the Local 101 Political Action Committee and that it will be used in connection with federal, state and local elections. I expressly reserve the right to revoke this authorization in writing at any time whatsoever.

As I become entitled to receive payments under the terms of the Vacation Fund Agreement, please direct from my Vacation Fund as of January 1, 1980, my contribution of 5 cents per hour worked and reported before April 1, 1983 and 7 cents per hour worked and reported after March 31, 1983.

Other: _____

Date: _____ Member's Signature _____

The Act requires that any solicitation of union members by a labor organization on behalf of its separate segregated fund contain a clear statement informing each potential contributor of the political purposes of funds at the time of the solicitation. 2 U.S.C. 441b(b)(3)(B); 11 CFR 114.5(a)(3). The language in the deduction authorization form contains a clause informing potential contributors that the funds to be withheld from the Vacation Fund will be paid into the 101 Political Fund and will be used for political purposes.

Commission regulations also provide that a guideline for contributions may be suggested by a labor organization or its separate segregated fund as long as the solicitation informs potential contributors that: (a) the guidelines are merely suggestions; (b) that an individual is free to contribute more or less than the guidelines suggest; and (c) that the labor organization will not favor or disadvantage anyone because of the amount of their contribution or their decision not to contribute. 11 CFR 114.5(a)(2).

The redrafted deduction authorization form contains language which advises the prospective contributor that: (a) the guidelines are merely suggestions; (b) that an individual may contribute an amount other than 5 cents per hour worked and reported before April 1, 1983 and 7 cents per hour worked and reported after March 31, 1983, though the redrafted form as presented lacks sufficient clarity as to how the prospective donor should indicate an amount other than set out therein²; and (c) that the union will not favor or discriminate against anyone because of their decision as to the amount of their contribution or their decision not to contribute. Therefore, the Commission concludes that use of the proposed deduction authorization form so amended would be permissible under the Act and 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

Enclosure (AO 1979-60)

² The Commission recommends that the language "Amount other than suggested guideline above:" be substituted for the word "Other:" in the next to last line of the proposed form.