



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 20, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-4

Mr. Michael M. Schoor, Counsel
National Society of Professional Engineers-PAC
P.O. Box 57059
Washington, D.C. 20037

Dear Mr. Schoor:

This responds to your letter of January 6, 1981, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the appropriateness of a political contribution plan.

You state that the plan allows individual members of the National Society of Professional Engineers¹ ("the Society") to voluntarily designate on their dues statement that a certain amount in addition to their membership dues be forwarded to the Society's political action committee ("PAC"). You state further that each of the dues statements contains language indicating the conditions under which the contributions are solicited.² You ask specifically whether it is appropriate under the Act for the PAC to employ this scheme through the Society's dues statement.

It is the opinion of the Commission that such a plan is permissible under the Act. The plan, as outlined by you, does not violate the statutory prohibitions against corporate contributions under 2 U.S.C. 441b. The Commission has concluded in a previous advisory opinion concerning a materially indistinguishable situation that solicitation of political contributions by an incorporated, nonprofit, membership organization may be conducted under

¹ The Commission understands and assumes for purposes of this opinion that the National Society of Professional Engineers is incorporated. See Advisory Opinion 1976-73.

² "The National Society of Professional Engineers-Political Action Committee collects contributions from Society members to be used for political purposes. Contributions to the PAC are voluntary and are not a requirement of membership in NSPE. Although the PAC requests an annual contribution of \$5, this is only a suggestion. A member may contribute more or less than the amount suggested or may refuse to make a contribution and this will not affect his or her membership status, rights or benefits in NSPE. Corporate contributions are prohibited by Federal law."

2 U.S.C. 441b in conjunction with the mailing of dues statements to individual members of the organization. See Advisory Opinion 1978-42; also see Advisory Opinion 1979-19, copies enclosed. The PAC's solicitation language to be included on the Society's dues statement satisfies the notice requirements of 11 CFR 114.5(a), regarding voluntary contributions to a separate segregated fund.

In concluding that the check-off plan is permissible under the Act, the Commission makes several assumptions upon which approval is expressly conditioned. First, no portion of a contributing member's dues (payable to the Society) may be used, directly or indirectly, as his or her contribution. See Advisory Opinion 1980-44, copy enclosed.

Second, if any individual member of the Society conducts his or her business as a corporation, then the combined dues payment and political contribution from that member must be drawn on an individual account or on a non-repayable drawing account which the individual maintains with the corporation.

Finally, when an employee or agent of the Society receives a combined dues payment and political contribution, the political contribution portion must be separated and forwarded for recording and deposit pursuant to the timely transmittal provisions of 2 U.S.C. 432(b)(2) and Commission regulations at 11 CFR 102.8(b). Also, see 11 CFR 103.3.

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)

John Warren McGarry
Chairman for the
Federal Election Commission

Enclosures