



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 16, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-6

Ms. Judith Bowman
Associate Counsel
Sunkist Growers, Inc.
P.O. Box 7888
Van Nuys, California 91409

Dear Ms. Bowman:

This responds to your letter of January 20, 1981, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a proposed loan from a committee which supports state and local candidates to a political committee for investment purposes.

According to your request, Sunkist Growers, Inc. ("Sunkist") is a cooperative which is organized as a non-profit corporation. Sunkist has established a separate segregated fund for political purposes as permitted by the Act (Federal PAC). Sunkist has also established a state separate segregated fund* under the laws of California to support state and local candidates (State PAC). The State PAC has solicited and received corporate contributions. You further explain that monies are not commingled in the State and Federal funds. Moreover, you say the Federal PAC has a campaign depository as required under 11 CFR 103.2, and in addition to that depository has, from time-to-time, invested portions of the funds available for the purpose of enhancing the total.

The Federal PAC specifically asks whether the Federal PAC may borrow funds from the State PAC to purchase a treasury bill. In addition, the Federal PAC asks for guidance on the appropriate manner in which to allocate interest generated from such purchase.

* Such a fund is not required to register under the Act as a political committee if it is established solely for financing political activity in State or local elections. 11 CFR 102.1(c).

The Commission is of the opinion that a loan made by the State PAC to the Federal PAC would result in the State PAC becoming a political committee under the Act and so would subject the State PAC to all registration and reporting requirements, as well as all prohibitions and limitations of the Act.

2 U.S.C. 431(8)(A)(i) provides that the term "contribution" includes "any gift, subscription, loan..." made by any person to influence any election to Federal office. The loan by the State PAC constitutes a contribution by the State committee to the Federal PAC. Normally the threshold for triggering political committee status and registration and reporting requirements attached to such status is \$1,000 of contributions or expenditures as defined in the Act. However, there is no such threshold for a separate segregated fund established by a corporation under 2 U.S.C. 441b(b). Rather, where as here a committee is established by a corporation, and that committee engages in activity for Federal election purposes as described herein, the committee automatically takes on the status of a political committee. 2 U.S.C. 431(4)(B). As such it must register and report and divest itself of monies obtained from sources which are prohibited under the Act. See 2 U.S.C. 433 and 434 and 11 CFR 104.12.

Thus, the Commission concludes that the State PAC may make the loan to the Federal PAC only if it registers, reports and operates as a political committee for purposes of the Act.

As for your question regarding interest generated from the purchase of the treasury bill, the Commission is of the opinion that no allocation of the interest generated from the treasury bill purchase is necessary. The loan is a contribution to the Federal PAC which, in turn, uses the proceeds to purchase the treasury bill. The investment is a transaction of the Federal PAC, and any interest earned accrues to the Federal PAC. Of course, there is nothing in the Act which would prevent the State committee from charging the Federal PAC for interest on the loan.

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