



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 8, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-18

Jerry W. Powell
Counsel
Central Bancshares of the South, Inc.
P.O. Box 10566
Birmingham, Alabama 35296

Dear Mr. Powell:

This responds to your letter of March 30, 1981, requesting an advisory opinion on behalf of Central Bancshares of the South, Inc. ("Central Bancshares") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to certain aspects of the establishment of a separate segregated fund by Central Bancshares.

You state that Central Bancshares, a multibank holding company, wishes to establish a separate segregated fund, to be known as CENTRAL BANCPAC, for political purposes which fund will be "authorized to receive only contributions subject to the prohibitions and limitations of the Act...." Such contributions, you state, will be used in connection with both federal and non-federal elections.

You ask specifically whether CENTRAL BANCPAC, a separate segregated fund which will engage in both federal and non-federal elections, is precluded by the Act and regulations from using contributions it receives to make, in turn, its own contributions in connection with non-federal elections.

Section 102.5(a)(1) of the Commission's regulations provides "political committees" involved in both federal and non-federal elections with two options with regard to reporting obligations. A separate federal account may be established which is treated as a separate "political committee" subject to the requirements of the Act, see 11 CFR 102.5(a)(1)(i); or the committee may receive only those contributions which are subject to the prohibitions and

limitations of the Act, regardless of whether the contributions are to be used in connection with federal or non-federal elections, see 11 CFR 102.5(a)(1)(ii).

A political committee choosing the second alternative is not precluded by the Act or regulations from soliciting and receiving contributions which are lawful under the Act for use in connection with non-federal elections. Such a committee would, however, be subject to the reporting requirements of the Act. See 2 U.S.C. 434. The focus of 11 CFR 102.5(a)(1) is the proper solicitation and receipt of contributions from permissible sources by a political committee involved in any federal election activity. The regulation was not intended to restrict the class of donees that may receive contributions from the registered political committee. Further, the provisions of 11 CFR 102.5(a)(2) are designed to govern a political committee's solicitation and receipt of contributions rather than its ultimate use of those contributions for non-federal elections.

Thus, insofar as the Act is concerned, CENTRAL BANC PAC is not limited to using contributions which it solicits, receives, and reports pursuant to the requirements of the Act and regulations, for the purpose of making contributions solely in connection with federal elections. The Commission notes that CENTRAL BANC PAC'S use of such contributions in connection with non-federal elections, although not within the purview of the Act, would be subject to applicable State law. The provisions of the Act and Commission regulations do not preempt provisions of State law with regard to non-federal elections. See 2 U.S.C. 453 and 11 CFR 108.7(a).

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