



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 4, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-21

Ms. Barbara Koirtyohann
Secretary/Treasurer
Hallmark Political Action Committee
2501 McGee
Kansas City, Missouri 64108

Dear Ms. Koirtyohann:

This responds to your letter of April 22, 1981, requesting an advisory opinion on behalf of Hallmark Political Action Committee ("HALLPAC") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations to certain proposed activity by HALLPAC. Your request was predicated on a factual situation partially presented by you in a letter dated August 11, 1980. That factual situation is incorporated in and supplemented by your April 22, 1981 letter requesting an advisory opinion.

You explain the organizational structure of HALLPAC as follows. HALLPAC is a "political contribution program for executive and administrative employees of Hallmark, Inc." HALLPAC-Federal, a "political committee" registered with the Commission has two affiliated committees, HALLPAC-Missouri and HALLPAC-Kansas. HALLPAC-Missouri is established in compliance with the Missouri Campaign Finance Act of 1978 and according to HALLPAC Articles of Operation, is limited to the support of candidates for state and local office in Missouri. HALLPAC-Kansas is established in compliance with the Kansas Campaign Finance Act of 1974 and is limited to the support of candidates for state office in Kansas. The two state committees have chosen not to accept corporate contributions, although such contributions are permissible under both Kansas and Missouri statutes. Thus, contributions to HALLPAC-Missouri and HALLPAC-Kansas come only from participating employees.*

* HALLPAC's Articles of Operation, Article III, dealing with membership, indicates that the Executive Committee is empowered to solicit "qualified management and administrative employees of Hallmark Cards, Inc. for membership" but that an employee who expresses a desire to "be a member of HALLPAC... will be extended an invitation." The Commission notes that its regulations at 11 CFR 114.5(j) in conjunction with 11 CFR 114.5(g), permit a separate segregated fund to accept contributions from persons not within the solicitable class of executive and administrative employees of the corporation but it is not permitted to solicit voluntary contributions from such persons except under the twice yearly provisions of 11 CFR 114.6.

Each of the three committees maintains a general fund and separate individual accounts for participating employees. Participating employees may authorize or designate the deposit of their payroll deduction monies or Personal checks representing political contributions either into their own individual accounts in any or all of the three committees, or they may allocate their contributions to the general fund of any or all of the committees. The monies in each general fund are used for the purpose of making contributions to candidates selected by the candidate screening committee set up for each committee by the Executive Committee of HALLPAC-Federal. You indicate that the individual accounts are "internal administrative accounts maintained and administered by each separate segregated fund." Each participating employee retains control of the funds in his or her individual account. Each individual account is maintained on a separate ledger sheet, and all, contributions to candidates from the employee's account must be approved with the employee's signature on a Funds Release Authorization form, a copy of which was enclosed with the request.

You ask whether, given the described organizational structure of HALLPAC and, its accounting procedures, an individual member of the three committees could authorize a transfer of funds from that member's individual account in either HALLPAC-Missouri or HALLPAC-Kansas to the member's individual account in HALLPAC-Federal for the purpose of making a contribution to a candidate for Federal office.

The Commission concludes that the proposed transfer of funds from an employee's individual account in HALLPAC-Missouri and/or HALLPAC-Kansas into the employee's individual account in HALLPAC-Federal for the purpose of making a political contribution is permissible under the Act and regulations provided the contribution limits contained in 2 U.S.C. 441a and the prohibitions contained in 2 U.S.C. 441b, 441c, and 441e are observed.

When an executive employee who has designated funds for an individual account in HALLPAC-Missouri or HALLPAC-Kansas, authorizes a transfer of funds from the individual account to HALLPAC-Federal, a "political committee" under the Act, a contribution from the employee to HALLPAC-Federal would result. Such a contribution would be subject to an aggregate limit of \$5,000 per calendar year. 2 U.S.C. 441a(a)(1)(c); 11 CFR 110.1(c). When an employee-authorized disbursement is made from funds in his/her individual account in HALLPAC-Federal to a candidate for Federal office designated by the employee, a contribution by the employee to that candidate would occur. This contribution would be subject to an aggregate limit of \$1,000 per election with respect to that candidate. 2 U.S.C. 441a(a)(1)(A); 11 CFR 110.1(a).

With regard to reporting obligations, the Commission's regulations provide that HALLPAC-Federal as a conduit or intermediary of a designated contribution, shall report certain information including the original contributor and intended recipient of the contribution. 11 CFR 110.6(c). Commission regulations at 11 CFR 110.6(d) provide that if a conduit or intermediary exercises any direction or control over the choice of the recipient candidate of an earmarked contribution, a contribution by both the employee and the conduit results and must be reported accordingly. Since this request presents no factual information regarding the making of these earmarked contributions, this opinion does not reach the issue of whether HALLPAC-Federal

exercises "direction or control over the choice of the recipient candidate" and thus, whether earmarked contributions in this situation are contributions from HALLPAC-Federal to the designated candidate. See the Commission's response to Advisory Opinion Request 1976-92, copy enclosed.

Based on the specific factual situation presented by your request, the Commission concludes that the proposed transfer of funds from an individual account in either HALLPAC-Missouri and HALLPAC-Kansas into an individual account in HALLPAC-Federal for the purpose of making a contribution to a candidate for Federal office is not prohibited by the Act provided the limitations, prohibitions and reporting provisions of the Act are observed.

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

Enclosure (Re: AOR 1976-92)