



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 6, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-40

Richard J. Ressler
Sullivan & Cromwell
1775 Pennsylvania Avenue
Washington, D.C. 20006

Dear Mr. Ressler:

This responds to your letter of August 26, 1981, requesting an advisory opinion on behalf of Bache Halsey Stuart Shields Incorporated ("Bache") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to providing mementos paid for with corporate treasury funds, in recognition of contributions to Bache's separate segregated fund.

Bache proposes to provide mementos to those who contribute to their separate segregated fund. Bache states that contributors to the fund will not become "members" of the fund within the meaning of 11 CFR 114.5(c). Under the Bache proposal a contributor of \$1,000 would receive a pen and pencil set attached to a base containing the fund's logo, with a cost to Bache not exceeding \$50. A contributor of \$500 would receive only the pen in the base, with a cost to Bache not exceeding \$30. Those that contribute \$100 would receive only the base, with a cost to Bache not exceeding \$15. You ask whether Bache is permitted to use corporate treasury funds to provide mementos to those who contribute to its separate segregated fund.

A corporation or labor organization is permitted to use treasury funds to establish, administer and solicit contributions to its separate segregated fund. 2 U.S.C. 441b(b)(2)(C) and 11 CFR 114.5. Corporations and labor organizations may not, however, use the establishment, administration, and solicitation process as a means of exchanging general treasury monies for contributions. 11 CFR 114.5(b). A corporation or labor organization may offer prizes as part of a fundraising device provided that the prizes offered are not disproportionately valuable in relation to the contributions generated. While prizes can be offered in return for contributions to separate segregated funds, those prizes cannot be so numerous or valuable in relation to their cost that the fundraising procedure becomes, in effect, a "trading" money situation. The Commission's regulations provide that a "reasonable practice to follow is for the separate segregated fund to

reimburse the corporation or labor organization for costs which exceed one-third of the money contributed." 11 CFR 114.5(b)(2), Advisory Opinion 1979-72. Accordingly, in Advisory Opinion 1981-7, the Commission held that labor unions could use treasury funds to purchase jackets, which would be sold to union members to raise contributions for the union's separate segregated fund, provided that the union treasury was reimbursed for any costs that exceeded one-third of the money contributed for the jackets.

The prizes offered by Bache, the mementos, are not so valuable or numerous that a "trading" money situation would exist. The value of the mementos does not approach one-third of the money contributed. The small value of the mementos, a maximum of \$50 for a \$1,000 contribution, ensures that the contributor is not exchanging his or her contribution for the mementos being offered. The Commission concludes that mementos such as those offered here by Bache can be given in return for voluntary contributions, and that the mementos may be purchased with corporate treasury funds.

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 (AO 1981-7, 1979-72)