



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 25, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-55

Michael A. Nemeroff
Sidley & Austin
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Dear Mr. Nemeroff:

This responds to your letter of December 5, 1981, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the solicitation of political contributions by the American Medical Association Political Action Committee ("AMPAC"), the political action committee ("PAC") of the American Medical Association ("AMA"), from members of the American Medical Association Auxiliary, Inc. ("Auxiliary").

Your request indicates that the AMA is a not-for-profit corporation and membership organization consisting of individuals possessing a Doctor of Medicine, or the equivalent, or pursuing a course of study leading to such a degree. The Auxiliary is a not-for-profit corporation and membership organization which purpose, as stated in its bylaws, is to "assist programs of the AMA that improve the health and quality of life for all people." Membership in this dues paying organization is voluntary, however, it is limited to spouses of AMA or state medical association members.

The extent of the relationship between the AMA and the Auxiliary is evidenced in the copy of Auxiliary bylaws attached to your request. Section 1 of the bylaws Statement of Policy provides that "the policy of the American Medical Association Auxiliary, Inc. in legislative and program areas shall be governed by the parent organization [the AMA]." (Emphasis added.) Section 2 provides that the Auxiliary may not be represented on the boards of other organizations nor affiliate with other organizations without the approval of the AMA Advisory Council. Section 3 allows the Auxiliary to endorse or oppose pending legislation only upon the recommendation of the AMA Advisory Council. Finally, Section 5 provides that the Auxiliary Board of Directors may alter these policies only upon the direction of the AMA Advisory

Council. Based on this relationship, you conclude that the AMA and the Auxiliary are affiliated organizations, thus, AMPAC may directly solicit Auxiliary members. The Commission agrees with this conclusion.

In Advisory Opinions 1979-38, 1978-61 and 1977-70 (copies enclosed), the Commission stated that where a corporate franchisor maintains direct and continuous control over its franchisees the organizations are affiliated within the meaning of the Commission's regulations. Consequently, the franchisor's PAC may extend its solicitable class to include the executive and administrative personnel of the franchisees and their families, as well as the executive and administrative personnel of the corporation and their families. Analogously, where one incorporated membership organization maintains such control over a second like organization as to indicate affiliation within the meaning of the Commission regulations, the PAC of the first organization may extend its solicitable class to include the members of its affiliate, as well as its own members. See analogously, 11 CFR 114.1(e) and 114.8(g).

The influence that the AMA maintains over the workings of the Auxiliary is the type of control that indicates affiliation between organizations. Under the Commission's regulations, two indicia of affiliation are:

Provisions of bylaws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;

The authority, power, or ability to hire, appoint discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity. 11 CFR 100.5(g)(2)(ii) and 110.3(a)(1)(iii).*

Both indicia are present here. The AMA has the ability to direct the Auxiliary, and to influence the decisions of its officers. All Auxiliary policies are determined by the AMA and may not be altered absent direction from the AMA Advisory Council. The entire legislative and program areas of the Auxiliary are governed by the AMA. The Auxiliary may not even endorse or oppose legislation unless such action is recommended by the AMA.

The AMA's continuing control and direction of the policies and practices of the Auxiliary make them affiliates within the meaning of the Commission regulations. Accordingly, AMPAC, the separate segregated fund of the AMA, may solicit contributions from the members of the Auxiliary. In conducting these solicitations, AMPAC must conform to the procedure set forth in Commission regulations for the solicitation of membership organizations. 11 CFR 114.5, 114.7; see also 11 CFR 114.1(e). Should the Auxiliary establish a separate segregated fund, the rule against proliferation of political committees, 2 U.S.C. 441a(a)(5), and Commission regulations on contributions by affiliated committees would apply. 11 CFR 110.3.

* */ While the quoted provisions are primarily applicable to whether political committees are affiliated for purposes of reporting affiliation and sharing contribution limitations, see 2 U.S.C. 433(b)(2) and 11 CFR 102.2(a)(1)(ii) and 2 U.S.C. 441a(a)(5) and 11 CFR 110.3(a)(1)(i), they also address the relationship between organizations other than political committees that may wish to solicit contributions from each others' members for the political committee(s) sponsored by either of the organizations or by both of them.

In view of the conclusion stated above, the Commission does not address that portion of your request that discusses the solicitability of families of noncorporate members of incorporated membership organizations. See the Commission's response to Advisory Opinion Request 1976-63 (copy enclosed).

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

(signed)

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosure (AOs 1979-38, 1978-61, 1977-70 and Re:AOR 1976-63)