



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 23, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-21

Glenn D. Bossmeyer
Treasurer
HUMPAC
P.O. Box 1438
Louisville, Kentucky 40201

Dear Mr. Bossmeyer:

This responds to your letters dated February 5 and March 9, 1982, requesting an advisory opinion on behalf of HUMPAC, the separate segregated fund of Humana, Inc., concerning application of the Federal Election Campaign Act of 1971, as amended, ("the Act"), and Commission regulations to a contribution that HUMPAC proposes to make to another political committee.

You indicate that HUMPAC is the duly established separate segregated fund of Humana, Inc., a Delaware corporation. Humana is "involved in a number of health related activities" and has numerous subsidiaries many of which are hospitals. HUMPAC currently has cash assets of approximately \$4,052.

You state that HUMPAC wishes to make a contribution in the amount of either \$500 or \$1,000 to the separate segregated fund of the American Hospital Association ("AHA"). You ask specifically whether such a contribution would cause HUMPAC to become affiliated with the separate segregated fund of the AHA. In this regard, you indicate that HUMPAC has never been solicited for contributions to the fund of the AHA, although one member of HUMPAC, who is also a member of the Board of Trustees of the AHA, has been individually solicited for contributions to the fund of AHA. You also indicate that HUMPAC has never made a contribution to, nor received a contribution from, the fund of AHA.

The Commission concludes that a proposed contribution by HUMPAC in the amount of either \$500 or \$1,000 to the fund of the AHA would be insufficient, by itself, to create an affiliated

relationship between the two political committees. The Commission's regulations provide that political committees will be considered "affiliated" if one committee is established, financed, maintained or controlled by another political committee. See 11 CFR 100.5(g)(2). Subsection (2)(ii) of that regulation provides that the indicia of establishing, financing, maintaining or controlling include the following:

- (A) Ownership of a controlling interest in voting shares or securities;
- (B) Provisions of bylaws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;
- (C) 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;
- (D) Similar patterns of contributions;
- (E) The transfer of funds between committees which represents a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

The Commission addressed a similar factual situation in Advisory Opinion 1976-104, copy enclosed, and concluded that an affiliated relationship existed between two political committees where one committee transferred a substantial portion of its assets to another political committee and where Commission records indicated the presence of similar patterns of contributions by the two committees.

Based on the information provided in your request, it appears that a proposed contribution either in the amount of \$500 or \$1,000 from HUMPAC to the fund of the AHA would be a transfer of funds to the fund of the AHA that represents a "substantial portion" of HUMPAC's assets: 12% and 25% respectively. 11 CFR 100.5(g)(2)(ii)(E). However, in the absence of facts showing that any other indicia of affiliation, as set forth in 11 CFR 100.5(g)(2)(ii), are present in this case, the proposed contribution by itself would be insufficient to create an affiliated relationship between HUMPAC and the separate segregated fund of the AHA.

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.

Sincerely,

(signed)

Frank P. Reiche
Chairman for the Federal Election Commission

Enclosure (AO 1976-104)