



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 9, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-34

A. N. Fritz, Treasurer
Sonat Inc. Political Action Committee
P.O. Box 2563
Birmingham, Alabama 35202-2563

Dear Mr. Fritz:

This responds to your letter of April 21, 1982, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to political contributions made by employees, located overseas, via a payroll deduction program.

Your letter states that Sonat Offshore Drilling Inc. ("Offshore") is a wholly owned subsidiary of Sonat, Inc. ("Sonat"). Sonat Political Action Committee ("Sonat PAC") is the separate segregated fund of Sonat. Offshore is a Delaware corporation, as is Sonat, but Offshore in turn has some wholly owned subsidiaries that are foreign corporations organized outside the United States, whose principal place of business is outside the United States, and who employ U.S. citizens living abroad.

You assert that the executive and administrative employees of Sonat and its domestic subsidiaries, including Offshore, who desire, to contribute to Sonat PAC have the option of doing so through payroll deductions. You add, however, that you have not permitted the foreign subsidiaries of Offshore to establish payroll deduction programs for their executive or administrative employees who are U.S. citizens, because of uncertainty whether payroll deduction may be administered by these foreign subsidiaries. You ask whether it is permissible under the Act for the foreign subsidiaries of Offshore to administer payroll deduction programs for contributions to Sonat PAC by eligible U.S. citizen employees of those foreign subsidiaries.

Under the Act, it is unlawful for a foreign national to make a contribution directly or through any other person in connection with any election to any political office. 2 U.S.C. 441e. It is not unlawful, however, for a United States citizen who is employed outside the United States, as an

executive of a foreign national corporation subsidiary, to make contributions to the separate segregated fund of the United States parent corporation. Advisory Opinion 1979-59. This conclusion follows from Senate consideration of the 1974 amendments to 18 U.S.C. 613 (the predecessor of 2 U.S.C. 441e). During that consideration the following colloquy occurred:

Mr. Cook: May I ask the Senator a question? I think it is important. In no way is the Senator from Texas excluding an American national who finds himself by reason of his corporate employment living in Japan, Australia, or anywhere else in the world. Is he excluding that individual from writing his individual check and sending it to a political organization of his choice in the United States in any election.

Mr. Bentsen: In no way is he precluded from that. He is an American citizen living overseas and he can participate.

93 Cong. Rec. S4715 (daily ed. March 28, 1974) (remarks of Sen. Cook and Sen. Bentsen).

The issue presented in this request is whether the cost of establishing and administering a payroll deduction program by a foreign national subsidiary of Offshore, for use by its American executive employees to facilitate their voluntary contributions to Sonat PAC, represents a contribution by the foreign national subsidiary to Sonat PAC. The Commission answers this in the negative.

The payment by a corporation of the costs of establishment, administration, and solicitation of contributions to a separate segregated fund of a corporation is not a contribution for purposes of the Act. 2 U.S.C. 441b(b)(2)(C), also see 2 U.S.C. 431(8)(B)(vi). Commission regulations specifically permit a parent corporation to solicit voluntary contributions from the executive or administrative personnel (and their families) of its subsidiary corporations. 11 CFR 114.5(g)(1). This right of solicitation is not affected by the status of the subsidiary as a foreign national corporation assuming, of course, that the personnel solicited are not foreign nationals. Advisory Opinion 1979-59. Thus, because the costs of administering a payroll deduction plan, as well as the parent corporation's costs of soliciting the eligible personnel of its foreign national subsidiary, are not considered contributions to Sonat PAC, the foreign subsidiaries' payments of those costs on behalf of Sonat are not prohibited by 441e.

There is additional support for this conclusion in the legislative history of the 1974 amendments to the Act. In that debate, the Senate approved the Bentsen amendment to 18 U.S.C. 613 instead of the Griffin substitute amendment. The Griffin amendment would have prohibited a United States citizen living abroad from making a contribution with a check drawn on a foreign bank account. In his statement opposing the Griffin amendment, Senator Cook of Kentucky stated:

It seems to me we should not go totally and completely overboard and destroy the incentive of 2 million Americans who live abroad and want to contribute to the electoral process. Therefore I oppose the amendment..."

93 Cong. Rec. S4717 (daily ed. March 28, 1974) (remarks of Sen. Cook).

The Griffin substitute amendment was defeated, and, as appears from this legislative history, the Senate expressed an intention to facilitate the making of contributions for Federal elections by Americans living abroad.

The Commission has concluded herein that a foreign national subsidiary of a domestic parent corporation having a separate segregated fund may pay the administrative costs of providing payroll deduction for its eligible United States citizen employees who wish to contribute to the parent's fund by that method. This does not mean, however, that a foreign national corporation may establish and administer its own separate segregated fund and solicit its United States citizen employees for contributions. The Commission in the context of foreign national involvement in the administration of political committees (separate segregated funds), has consistently conditioned its approval on the exclusion of any foreign national from any decision-making role or control with respect to the separate segregated fund. See Advisory Opinions 1981-36, 1980-111, 1980-100, and 1978-21, copies enclosed. Accordingly, the Commission conditions its approval on the assumption that none of Offshore's foreign national subsidiaries or their foreign national personnel, will have any decision-making role or control over the making of contributions to or by Sonat PAC.

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)

Frank P. Reiche
Chairman for the Federal Election Commission

Enclosures (AOs 1979-59, 1981-36, 1980-111, 1980-100, and 1978-21)