



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 29, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-46

Will Ehrle, President and General Manager
Texas Manufactured Housing Association
American Founders Building, Suite 210
P.O. Box 15343
Austin, Texas 78761

Dear Mr. Ehrle:

This responds to your letter of June 22, 1982, on behalf of the Texas Manufactured Housing Association ("TMHA") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the registration and reporting requirements for TMHA's separate segregated fund.

Your letter states that TMHA is a non-profit corporation providing trade services to the manufactured housing industry. TMHA sponsors a political action committee (TMHA-Committee for Responsible Government, "TMHA-CRG") which is registered and files regular reports with the Texas Secretary of State. You state that TMHA-CRG funds are given by individuals only, since Texas state law prohibits any contributions by a corporation. Further, TMHA-CRG funds are segregated and separately accounted for and are contributed to worthy candidates for state and/or local office. The TMHA-CRG is not registered with the Federal Election Commission and has never directly made any contributions to a candidate for Federal office.

You note that recently TMHA-CRG made a contribution of \$1,000 to a registered Federal political committee, and that the Federal political committee subsequently made contributions to one or more candidates for Congress. In light of these circumstances, you ask whether TMHA-CRG must register and file periodic reports with the Commission and otherwise be subject to the prohibitions, limitations, and requirements of the Act and Commission regulations. The Commission answers this in the affirmative.

Under the Act, the term "political committee" is defined to include any separate segregated fund, which in this case includes TMHA-CRG. 2 U.S.C. 431(4)(B). Moreover, a separate segregated fund becomes a political committee under the Act regardless of the total amount of contributions

it makes to Federal candidates or other Federal political committees. Compare 2 U.S.C. 431(4)(A), 431(4)(C), and 431(4)(B) and see Advisory Opinion 1981-6 (copy enclosed). Thus, the making of the contribution by TMHA-CRG to the Federal political committee triggers "political committee" status for TMHA-CRG under the Act.*/ As a political committee TMHA-CRG is therefore required to register with the Commission within 10 days, and file periodic reports disclosing contributions made and received. See 2 U.S.C. 433(a) and 434(a) (4). Furthermore, the first report filed by TMHA-CRG must disclose amounts received prior to becoming a political committee, even if such amounts were not received during the current reporting period. 11 CFR 104.3(a) and 104.12. As the separate segregated fund of a trade association, THMA-CRG may solicit the executive and administrative personnel and stockholders of TMHA member corporations provided those member corporations give separate and specific approval to such solicitation and the member corporation has not authorized any such solicitation by more than one such trade association in any calendar year. See 2 U.S.C. 441b(b)(4)(D) and 11 CFR 114.8.

You have asked specifically how, if TMHA-CRG is required to register and report with the Commission, it may continue to function as a state PAC at the same time that it operates and makes contributions to Federal candidates and political committees. Commission regulations at 11 CFR 102.5 provide that any organization that finances political activity in connection with both Federal and non-Federal elections, and which is a political committee, has two options. It must establish a separate Federal account which is treated as a separate political committee and which must comply with the requirements of the Act. Alternatively, it may establish a single political committee which may only receive contributions subject to the prohibitions and limitations of the Act regardless of whether such contributions are for use in connection with Federal or non-Federal elections.

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

Enclosure (AO 1981-6)

* The Commission notes that the only way for TMHA-CRG to avoid the registration and reporting requirements of the Act is to rescind the original transaction which gave rise to TMHA-CRG's status as a separate segregated fund under 2 U.S.C. 441b(b) (i.e. the making of the \$1,000 contribution to another Federal political committee). TMHA-CRG should also be aware that once having registered and filed its initial report of the sources and recipients of

contributions by TMHA-CRG, it may then terminate its registration and reporting requirements by filing a termination report. A political committee may terminate its registration if it does not intend to finance any further Federal election activity. See 11 CFR 102.3.