



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

November 9, 1982

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-54

John D. Cummins  
Squire, Sanders & Dempsey  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Dear Mr. Cummins:

This refers to your letter of September 24, 1982, as supplemented by letter dated September 27, requesting an advisory opinion on behalf of the Public Securities Association ("PSA") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposed mailing for the purpose of seeking corporate member approval of contribution solicitations.

Your letters state that PSA is a nonprofit corporation and a national trade association with corporate and noncorporate members. In July 1982, PSA established and registered with the Commission a political action committee having the name Public Securities Association Political Action Committee ("PSA-PAC"). PSA-PAC is preparing materials to send to the member corporations of PSA in an effort to obtain their approval for contribution solicitations by PSA-PAC of the stockholders and executive or administrative personnel of PSA's corporate members. The proposed solicitations would be made in calendar year 1983, but PSA-PAC proposes to mail its requests for approval of 1983 solicitations in the last calendar quarter of 1982. You explain that the request for solicitation approval will clearly state that a corporate member's approval will not be effective during 1982, but will apply only during 1983.

You ask for an advisory opinion whether the Act and Commission regulations would permit PSA-PAC's proposed mailing in the last three months of 1982 which mailing would request contribution solicitation approvals from PSA's corporate members to take effect in 1983. The Commission concludes that the described mailing to request solicitation approval for 1983 solicitations for PSA-PAC is permitted under the Act and regulations.

The Act, at 2 U.S.C. 441b(b)(4)(D), allows a trade association to solicit contributions to its separate segregated fund from the stockholders and executive or administrative personnel of its corporate members if (1) the solicitation has been approved by the member corporation, and if (2) that member corporation does not approve any solicitation "by more than one such trade association in any calendar year."\* Commission regulations amplify this statutory provision at 11 CFR 114.8(d)(4). The regulations state:

A separate authorization specifically allowing a trade association to solicit its corporate member's stockholders and executive or administrative personnel applies through the calendar year in which it is obtained. A separate authorization must be obtained each year.

This regulation emphasizes that a solicitation authorization applies for the year when it is obtained and that separate authorizations are required in and for each year. The Commission's response to Advisory Opinion Request 1976-113 (copy enclosed) also indicate that the regulation requires an approval in each year and that an approval cannot be valid for any year other than the one in which it was received by the trade association. The Act and regulations do not, however, address the time period during which a request for solicitation authorization may be made to the corporate members of the trade association. Accordingly, the Commission is of the opinion that requests for solicitation approval, to be effective in calendar 1983, may be mailed by PSA-PAC between October 1 and December 31, 1982. However, actual solicitations by PSA-PAC of the appropriate personnel may only be conducted in 1983 if the corporate member's 1983 approval is received by PSA (or PSA-PAC) after December 31, 1982. Multiple year solicitation approvals and post-dated approvals are not permitted by the Act or regulations in that they contravene the requirement for an approval to be received in the year of the actual solicitation.

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 (Re: AOR 1976-113)

P.S. Commissioner Aikens voted against approval of the opinion and will submit a dissenting opinion at a later date.

\* The Commission in its annual reports for each of the years 1978 through 1981, has recommended legislative changes with respect to 2 U.S.C. 441b(b)(4)(D) that would remove the one year time limitation so that trade associations may solicit personnel of their corporate

members until the corporation revokes its approval. Congress has not approved any revisions to this section.