



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

November 10, 1983

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-31

Mr. Jim C. Curlett  
Holtzmann, Wise & Shepard  
755 Paye Mill Road, Suite A-230  
Palo Alto, California 94304

Dear Mr. Curlett:

This responds to your letter of September 27, 1983, requesting an advisory opinion on behalf of Syntex Laboratories, Inc., Syva Company, and Syntex Chemical, Inc., ("the companies") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations, to proposed contributions and expenditures in connection with state and local campaigns for political office and with respect to state and local ballot measures.

You state that the companies are domestic subsidiary corporations of Syntex-U.S.A., a Delaware corporation that is itself a wholly-owned subsidiary of Syntex Corporation, a Panamanian corporation. You further state that the companies have adopted articles of organization for the creation of a committee known as the "Syntex Good Government Committee" ("the Committee") for the purpose of making contributions and expenditures in connection with state and local campaigns for political office and with respect to state and local ballot measures. You note that other corporations may be admitted to membership on the Committee, and that no corporation will be eligible to be represented on the Committee if it is a foreign national within the meaning of 2 U.S.C. 441e.

According to the Articles of Organization ("the Articles") enclosed with your request, the activities of the Committee will be managed by three individuals appointed from time to time by the Boards of Directors of the companies, with one member being appointed by each such Board of Directors. You note that these individuals, who are solely responsible for exercising the decision-making authority of the Committee, must all be citizens of the United States or persons lawfully admitted for permanent residence in the United States (i.e., not foreign nationals within the meaning of 2 U.S.C. 441e). In addition, the Articles state that no individual who is a foreign

national will participate in any way in the decision-making processes of the Committee with regard to political contributions or expenditures and that the Committee will not solicit or, accept any recommendations from any foreign nationals with respect thereto. The Articles also state that members of the Boards of Directors of the companies who are foreign nationals will abstain from voting on matters concerning the Committee or its activities.

In light of these facts, you ask whether the Committee is permitted to make the proposed contributions and expenditures in connection with state and local campaigns for political office and with respect to state and local ballot measures in California and possibly other states.

The Commission notes initially that under the Act, foreign nationals are prohibited from making contributions, directly or through any other person, in connection with any election to any political office. See 2 U.S.C. 441e. The term "foreign national" is defined by 2 U.S.C. 441e(b)(1) to mean a "foreign principal" as such term is defined specifically by 22 U.S.C. 611(b). Section 611(b) defines "foreign principal" as including:

- (1) a government of a foreign country and a foreign political party;
- (2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
- (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Commission concludes that since none of the corporations involved in establishing the Committee is a foreign principal as that term is defined in 22 U.S.C. 611(b), the Act would not prohibit the Committee from using funds contributed to it by the companies in connection with campaigns for state or local political office and state or local ballot measures in California and other states. See Advisory Opinion 1982-10. The Commission views the Committee's Articles of Organization as offering sufficient assurances that no individual who is a foreign national will participate in any manner in the decision-making processes of the Committee with regard to the proposed spending for political activities. See Advisory Opinions 1983-19, 1982-34, 1982-10, 1981-36, and 1980-111, copies enclosed.

The Commission expresses no opinion regarding application of any other Federal statute or state statute to the described activity since any issues hereunder are not within the Commission's jurisdiction.

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)

Danny L. McDonald  
Chairman for the Federal Election Commission

Enclosures (AOs 1983-19, 1982-34, 1982-10, 1981-36 and 1980-111)