



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

November 18, 1983

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-32

Mr. Thomas J. Trabucco  
Associate Legislative Director  
National Association of Retired Federal Employees  
1533 New Hampshire Avenue, N.W.  
Washington, D.C. 20036

Dear Mr. Trabucco:

This responds to your letter of September 29, 1983, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a proposed method of soliciting contributions to the National Association of Retired Federal Employees Political Action Committee (NARFE-PAC), the separate segregated fund of the National Association of Retired Federal Employees ("NARFE").

Your request states that NARFE is a membership organization composed of retired Federal employees and current employees with a vested interest in Federal retirement programs.<sup>1</sup> You state that qualified persons may participate in NARFE by direct membership in the national organization and through supplemental membership in various chapters that have been established in all 50 states. You note that chapter membership is optional.

According to your request, members of NARFE Chapter 50 ("the Chapter") instituted a recycling effort involving the collection of used aluminum cans and old newspapers for delivery to recycling centers. You state that Chapter 50 wishes to use the money generated by this recycling effort as a means of encouraging Chapter members to make voluntary contributions to NARFE-PAC. Specifically, the Chapter proposes to establish a lottery which would use the recycling monies as the source of cash winnings. The Chapter proposes to draw the names of its members at random at each monthly meeting and to award each winner \$2.50. The drawings would

---

<sup>1</sup> The Commission assumes that NARFE is still organized and operating as a corporation. Such corporate status was indicated in Advisory Opinion 1981-34, also issued to NARFE.

continue until all the funds generated from the recycling effort have been distributed to Chapter members.

Your request also states that the Chapter proposes to include solicitation material for NARFE-PAC with each cash prize. The solicitation would note the tax credit available for political contributions, and would refer to the various promotional items available from NARFE-PAC in return for contributions.<sup>2</sup> The solicitation material would also advise the recipient that the prize money could be combined with other funds, enabling the person to make a contribution of more than \$2.50. You add that the solicitation material would clearly state that contributions to NARFE-PAC are purely voluntary, that any guidelines on the amounts of contributions are only suggestions, and that a member's decision not to contribute will not affect his or her membership status in either Chapter 50 or NARFE. You ask, in light of these facts, whether Chapter 50 may establish such a program.

The Commission notes initially, that the funds to be used in the proposed lottery are now Chapter 50 treasury funds. As a corporation without capital stock, NARFE is prohibited from using its funds, as well as funds of its affiliated chapters, to make a contribution or expenditure in connection with any Federal election.<sup>3</sup> Thus, any payment or transfer of these funds to NARFE-PAC would constitute a prohibited contribution. 2 U.S.C. 441b. Similarly, while NARFE is permitted to use its treasury funds for the purpose of soliciting contributions to NARFE-PAC from NARFE members, it may not use the solicitation process as a means of exchanging treasury monies for voluntary contributions. 11 CFR 114.5(b) This result is not changed even if the membership agrees to use of the funds for political contributions. See Advisory Opinions 1980-133 and 1980-27, copies enclosed.

The Commission concludes that while the Act and regulations would not prohibit Chapter 50 from using the proceeds from the recycling effort to establish a lottery and award cash prizes to its members, it may not solicit the winners to contribute their prize money to NARFE-PAC in the manner described in your request. NARFE-PAC should also assure that the described prize monies, as well as other NARFE or Chapter 50 treasury funds, are not knowingly accepted as contributions.

The Commission notes that, according, to your request, Chapter 50 initially intended to contribute the recycling proceeds directly to NARFE-PAC, but abandoned that plan since it "constituted a commercial transaction, and was... a prohibited source of PAC funds." This opinion does not reach any issues or express any views with respect to chapter 50's original plan.

This opinion does not reach any issues arising under other Federal statutes or State law with respect to the described lottery. Nor does it address any tax ramifications. Those issues, if any, are not within the Commission's jurisdiction.

---

<sup>2</sup> The Commission notes that the use of promotional items by a separate segregated fund has been addressed in previous opinions to which you are referred for guidance. See Advisory Opinions 1981-40 and 1981-7, copies enclosed.

<sup>3</sup> For purposes of this opinion the Commission assumes that treasury funds of NARFE chapters are the equivalent of treasury funds of NARFE itself.

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. 437.

Sincerely yours,

(signed)

Lee Ann Elliott  
Vice Chairman for the Federal Election  
Commission

Enclosure (AOs 1981-40, 1981-7, 1980-133, 1980-27)