



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 14, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1984-43

Mr. Edgar Vanneman, Jr.
Brunswick Corporation
One Brunswick Plaza
Skokie, Illinois 60077

Dear Mr. Vanneman:

This responds to your letters of August 17 and 22, 1984, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the appearance of a Brunswick Corporation ("the company") employee in a taped television message.

You state that at the request of Congressman Jim Jones of Oklahoma, the General Manager of the company's Zebco Division, Mr. John Charvat, has consented to tape a TV sequence in which he is introduced and states the following:

"In the past two and one-half years, we have increased productivity at Zebco 42%. Nevertheless, we found that the importers were using a loophole in the excise tax law to actually undercut our manufacturing costs. All we ever ask is just to compete on an equal footing with the importers, and Jim Jones went to work for the sport fishing community to save jobs here in Tulsa. Jim has always had an open door for the people of Zebco and we're extremely appreciative of that."

You also state that the introduction to this message does not indicate that Zebco is supporting or endorsing Congressman Jones. The lead-in simply states that Congressman Jones is "looking out for local industries," and then introduces Mr. Charvat.

Your request states that Mr. Charvat made this statement as an individual and was not directed to do so by the Brunswick Corporation. Furthermore, you state that Congressman Jones' campaign committee will pay all the expenses involved in this televised message. You add that the Brunswick Corporation has made no expenditures in connection with the tape. You ask whether the appearance of Mr. Charvat in the proposed broadcast would be permissible.

Under the Act, the term "contribution" does not include "the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee." 2 U.S.C. 431(8)(b)(i) and 11 CFR 100.7(b)(3). The Commission assumes that Mr. Charvat is volunteering his time and that, therefore, the proposed activity would not constitute a contribution by him to the Jones campaign committee. Advisory Opinion 1978-77.

The request does not specify whether Mr. Charvat would provide his assistance during his ordinary working hours. The Commission's regulations set forth the circumstances under which a contribution by Brunswick Corporation would be avoided should this be the case: (1) if Mr. Charvat is paid on an hourly or salaried basis and is expected to work a particular number of hours per period and he makes up the time within a reasonable time; (2) if Mr. Charvat is paid on a commission or piecework basis or is paid only for work actually performed and his time is considered his own to use as he sees fit; or (3) the time used by Mr. Charvat is bona fide, although compensable, vacation time or other earned leave time. Accordingly, if Mr. Charvat provides his services during his regular work hours, but satisfies one of the three criteria specified, no contribution in kind by Brunswick Corporation for the value of this time would result.

The Commission has previously stated that the endorsement of a candidate by a corporation does not by itself constitute a prohibited contribution or expenditure for purposes of 2 U.S.C. 441b. Advisory Opinion 1984-23. It thus follows that where, as here, no corporate endorsement has been made, a statement that merely identifies Mr. Charvat as a corporate official would not implicate the company in a prohibited contribution or expenditure.

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)

Lee Ann Elliott
Chairman for the
Federal Election Commission