



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 28, 1985

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1985-6

Stuart M. Pohl, Esq.
Lipsitz, Green, Fahringer, Roll, Schuller & James
One Niagara Square
Buffalo, NY 14202

Dear Mr. Pohl:

This responds to your letter of January 17, 1985, requesting an advisory opinion on behalf of Laborers Local 91, Niagara Falls, New York, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to contributions made by the separate segregated fund of Local 91.

You indicate that Laborers Local 91 ("Local 91") has established a separate segregated fund known as the Laborers Local 91 Political Action Fund ("the Fund"). You also state that the Fund is supported by voluntary contributions from members of its connected organization, Local 91, and that the Fund was "formed and is maintained and operated exclusively by members of and financial support of" Local 91. The Laborers International Union ("LIU") and its separate segregated funds, you explain, "in no way played a part in the formation of ... [the] Fund, and has not and will not provide any financing, maintenance or control over" the Fund.

You ask whether the Fund is considered to be an "affiliated committee" with the separate segregated funds (political committees) established by and connected to the Laborers International Union. The answer is in the affirmative.

The term "affiliated committee" is defined in Commission regulations, and the effect of affiliated status on the receipt and making of contributions by political committees is also set forth in the regulations. 11 CFR 100.5(g), 110.3(a). These regulations implement the Act which provides in pertinent part:

in any case in which...a labor organization and any of its subsidiaries...or local units establish or finance or maintain or control more than one separate segregated fund, all such...funds shall be treated as a single separate segregated fund for purposes of the (contribution) limitations provided by... [441a(a)(1) and (a)(2)]. See 2 U.S.C. 441a(a)(5).

The regulations provide more specifically that all of the political committees¹ set up by a single international union or its local unions (or both) are treated as a single political committee for purposes of the contribution limits in the Act. 11 CFR 100.5(g)(2)(i)(B), 110.3(a)(1)(ii)(B). These regulations reflect the so called per se affiliation rule that applies to certain categories of political committees based solely upon the relationship between their respective connected organizations.² This per se rule applies regardless of whether a political committee at the local level is established or controlled by another committee or connected organization at the national level. The application of the per se rule in the context of labor organizations and their political committees is discussed in Walther v. Federal Election Commission, 468 F.Supp. 1235 (D.D.C., 1979).

It appears from your request that Local 91 is a local unit of LIU. Accordingly, the Fund is an affiliated committee of all political committees set up by LIU and its other local or subordinate labor organizations. The fact that LIU and its political committees do not finance, control, or maintain the Fund does not change this result. See discussion and citations above.

The status of the Fund as affiliated with the political committee(s) set up by LIU means that the Fund and all its affiliated committees share a single set of contribution limits with respect to contributions made and also with respect to contributions received. 2 U.S.C. 441a(a)(5), also See Advisory Opinions 1982-36 and 1982-18. However, the Fund must file separate reports reflecting its own receipts and disbursements as a separate political committee. See Advisory Opinions 1979-68 and 1979-56. In addition, the Fund's Statement of Organization (FEC Form 1) must identify as affiliated committees each political committee established by Local 91's parent body, the Laborers International Union. See generally 11 CFR 102.2 and, in particular, 11 CFR 102.2(b)(1)(ii).

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)

John Warren McGarry
Chairman of the Federal Election Commission

Enclosures (AO 1982-36, 1982-18, 1979-68, and 1979-56)

1. A separate segregated fund under 2 U.S.C. 441b(b) is one type of political committee. 2 U.S.C. 431(4)(B).

2. A "connected organization" is defined to include any organization (but not a political committee) such as a labor organization that directly or indirectly establishes, administers, or financially supports a political committee. 2 U.S.C. 431(7), 11 CFR 100.6.