



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 16, 1986

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1985-37

H. Richard Mayberry, Jr.
Mayberry and Leighton
1667 K Street, N.W., Ninth Floor
Washington, D.C. 20006

Dear Mr. Mayberry:

This responds to your letter of November 15, 1985, on behalf of the Michigan State Chamber of Commerce and the Grand Rapids Area Chamber of Commerce, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the proposed solicitation and collection of contributions.

You state that the Michigan State Chamber of Commerce ("Michigan Chamber") is incorporated under the laws of Michigan and exempt from Federal income taxation under 26 U.S.C. 501(c)(6). According to its by-laws, the Michigan Chamber is a membership organization of individuals, firms, and organizations. Its member organizations include associations representing particular lines of commerce as well as local chambers of commerce.

The Grand Rapids Area Chamber of Commerce ("Grand Rapids Chamber") is also incorporated and exempt from income taxation under 26 U.S.C. 501(c)(6). Its membership also include individuals, firms, and economic or social welfare organizations. The member firms may be corporations, sole proprietorships, or partnerships.

You state that other local chambers of commerce in Michigan are organized similar to the Grand Rapids Chamber. You add that members of a local chamber may or may not be members of the Michigan Chamber. You also note that the purposes of both the Michigan Chamber and the Grand Rapids Chamber include the promotion of commerce and general business conditions.

You state that the Michigan Chamber intends to establish and administer a Federal separate segregated fund, known as the Michigan Chamber Federation--Federal PAC ("Chamber Fed

PAC"). You add that the Michigan Chamber plans to solicit the individual and firm members of its member local chambers of commerce, such as the Grand Rapids Chamber, for voluntary contributions to Chamber Fed PAC, pursuant to 11 CFR 114.8(g)(1)(i). It will, however, first seek the prior approvals required by 11 CFR 114.8 before soliciting the stockholders and the executive or administrative personnel of the corporate members of a member local chamber of commerce.

You ask these questions:

(1) Is the Michigan Chamber a federation of trade associations with respect to the Grand Rapids Chamber and other member local chambers of commerce in Michigan for purposes of 11 CFR 114.8(g)?

(2) May the Grand Rapids Chamber and other member local chambers of commerce in Michigan serve as collection agents for contributions to Chamber Fed PAC pursuant to 11 CFR 102.6(b) and (c)?

Federation of Trade Associations

Commission regulations define a "federation of trade associations" as "an organization representing trade associations involved in the same or allied line of commerce." 11 CFR 114.8(g)(1). The regulations define a "trade association" as "generally a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of which inures to the benefit of any member." 11 CFR 114.8(a). This definition is drawn from the requirements for business associations in the Internal Revenue Code at 26 U.S.C. 501(c)(6). See Advisory Opinion 1977-44.

The Commission concludes that the Michigan Chamber does not qualify as a federation of trade associations under Commission regulations with respect to the Grand Rapids Chamber and other local member chambers.¹ The Commission has required that the organizations within a federation of trade associations share an organizational relationship. Compare Advisory Opinion 1983-28 with Advisory Opinion 1979-62. The by-laws of neither the Michigan Chamber nor the Grand Rapids Chamber establish or reflect such an organizational relationship. The Commission also notes that both the Michigan Chamber and the Grand Rapids Chamber include several categories of members, such as individuals, firms, and other organizations as well as the local chambers.² Each of these classes has voting rights and other privileges in their respective organizations.³ The Commission further notes that the Michigan chamber and its member local chambers represent all lines of commerce rather than a similar or related line of commerce. Accordingly, the Michigan Chamber is not a federation of trade associations, and neither it nor Chamber Fed PAC may solicit the members of its member local chambers pursuant 11 CFR 114.8(g).⁴

Collecting Agents

Commission regulations define a collecting agent as "an organization or committee that collects and transmits contributions to one or more separate segregated funds to which the collecting agent is related." 11 CFR 102.6(b)(1). The regulations state that a collecting agent includes either: (1) a committee affiliated with the separate segregated fund; (2) the connected organization of the separate segregated fund; or (3) a parent, subsidiary, branch, division, department, or local unit of the connected organization of the separate segregated fund. Id.

You assert that whether or not the Michigan Chamber is a federation with respect to the Grand Rapids Chamber and other member local chambers, the Grand Rapids Chamber and other local chambers nevertheless qualify as local units of the Michigan Chamber for purposes of the collecting agent regulations.

The Commission concludes, however, that the Grand Rapids Chamber is merely an organizational member of the Michigan Chamber and does not qualify as a "local unit" of the Michigan Chamber. Thus, the Grand Rapids Chamber is not an organization that is "related" to Chamber Fed PAC, the separate segregated fund of the Michigan Chamber. Accordingly, the Grand Rapids Chamber may not act as a collecting agent for contributions to Chamber Fed PAC pursuant to 11 CFR 102.6(b).

Furthermore, the Commission points out that all solicitations for contributions to Chamber Fed PAC, whether made by the Michigan Chamber or Chamber Fed PAC, must meet the requirements for a proper solicitation under 11 CFR 114.5(a). See 11 CFR 114.7(g) and 114.8(e)(4). Since you also state that the Michigan Chamber currently has a separate segregated fund used exclusively for non-Federal purposes, the Michigan Chamber and Chamber Fed PAC must also comply with the requirements of 11 CFR 102.5(a) regarding its Federal and non-Federal accounts. See generally, Advisory Opinions 1985-18 and 1984-31.

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)

Joan D. Aikens
Chairman for the Federal Election Commission

Enclosures (AOs 1985-18, 1984-31, 1983-28, 1979-62, and 1977-44).

1. Because of this conclusion, the Commission does not address the further question whether all of the political committees established, maintained, financed, or controlled by the Michigan Chamber and its member local chambers are one political committee for purposes of the Act's contribution limitations. See 11 CFR 100.5(g)(2)(i)(D) and 110.3(a)(1)(ii)(D); H.R. Rep. No.

1057, 94th Cong., 2d Sess. 58 (1976), reprinted in Legislative History of Federal Election Campaign Act Amendments of 1976 at 1052 (GPO 1977); see also, 122 Cong. Rec. 8573 (1976)(remarks of Reps. Wiggins and Hays). You do not present any questions about the Chamber of Commerce of the United States or its separate segregated fund, either (1) regarding the Chamber's organizational structure with respect to state and local chambers or (2) regarding solicitations for contributions to its fund or the shared limits for contributions made by the national chamber's fund. Also, the national chamber has not joined in this request. Accordingly, the Commission does not address any of these questions in this opinion.

2. The Commission views the situation presented in this advisory opinion as distinguishable from that presented in Advisory Opinion 1983-28. This earlier opinion dealt with an organization that included associations and corporations within its membership. The Commission concluded that the organization qualified as a federation of trade associations with respect to its association members (though remaining a trade association with respect to its individual members) on the basis of the organization's constitution and by-laws that specifically provided for it to recognize state associations which had special voting and nomination rights.

3. Both organizations also provide for a class of nonvoting members, such as associate or honorary members in the case of the Michigan Chamber and a "restricted" class of associate members in the case of the Grand Rapids Chamber. The Commission's conclusion regarding the status of the Michigan Chamber is not based on the provision for these classes of members.

4. The Commission does not address the solicitability of any of the classes of members of the Michigan Chamber for contributions to Chamber Fed PAC, since you have specifically excluded such questions from your request.