



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

March 14, 1986

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1986-7

William B. Dosland, Esquire  
Dosland, Dosland & Nordhougen  
American Bank and Trust Company Building  
P.O. Box 100  
Moorhead, Minnesota 56560

Dear Mr. Dosland:

This responds to your letter of December 13, 1985, as supplemented by your letter of January 21, 1986, requesting an advisory opinion on behalf of American Crystal Sugar Company ("the Company") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a proposed solicitation method.

Your request states that American Crystal Sugar Company is an agricultural cooperative incorporated under Minnesota law. At the present time, the Company has 1,703 common shareholders, of which 295 are corporations. You state that each shareholder of the Company owns one share of common stock and, accordingly, has voting power in the affairs of the Company.<sup>1</sup> Shareholders own varying amounts of preferred stock. You state that a shareholder is entitled to raise a certain acreage of sugarbeets annually, and that this acreage is prescribed from time to time by the Company Board of Directors in proportion to the number of preferred shares owned by the shareholder. You note that with respect to the 1986 crop, Crystal's shareholders will be authorized to grow one and one-tenth acres of sugarbeets for each share of preferred stock owned. You also state that growers receive four payments from the Company for their sugarbeet crops: an initial payment on or about November 15, a first adjustment payment on or

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<sup>1</sup> According to the Company's bylaws, "[a]ny person, firm, partnership, or corporation who is a bona fide sugarbeet farm operator in the territory in which the corporation is engaged in business and who agrees to purchase securities of [the] corporation and to abide by its Articles of incorporation and Bylaws, may upon approval of the Board of Directors, become a common shareholder of [the] corporation." See Bylaws of American Crystal Sugar Company, Article I, Section 1.

about March 31, a second adjustment payment on or about September 30, and a final payment sometime after an audit of the Company's year-end financial statements.

According to your request, the Company wishes to solicit and receive contributions for its political committee from its noncorporate shareholders. You state that a shareholder would be asked to contribute one dollar annually for each share of preferred stock owned by the shareholder. The contribution would be deducted by the Company from the first adjustment payment made to the grower (on or about March 31 each year) and would then be transmitted immediately to the Company's political committee.<sup>2</sup>

As an attachment to your request, you have provided an "Assignment and Authorization for Deduction" form that the Company plans to circulate to its noncorporate shareholders. The form states that funds obtained from shareholders are used for contributions to Federal candidates and that all contributions to the Company's political committee are voluntary. The form suggests a contribution of one dollar per preferred share, but emphasizes that the contribution requested is only a suggested amount and that the shareholder is free to contribute more or less than that amount, or make no contribution at all. The Assignment and Authorization for Deduction may be withdrawn by the shareholder by notifying the Company in writing on or before March 1 of any year. Upon the Company's receipt of such notice the withdrawal will be effective with respect to contributions deducted from payments for sugarbeets delivered in the prior calendar year and thereafter. The form states that the Company will not favor or disadvantage the shareholder on the basis of the amount of the shareholder's contribution or the shareholder's decision not to contribute.

In light of these facts, you ask whether the proposed solicitation method and contribution deduction authorization are permissible.

Under 2 U.S.C. 441b(b)(4)(c) and 11 CFR 114.7(a) an incorporated cooperative may solicit contributions to its separate segregated fund from its members and their families and from its executive or administrative personnel and their families. There is no limitation on a cooperative's method of soliciting voluntary contributions or on its method facilitating the making of voluntary contributions. 11 CFR 114.7(f). A cooperative and its separate segregated fund are subject, however, to the provisions of 114.5(a). See 11 CFR 114.7(g). Under this section, a corporation or its separate segregated fund may suggest a guideline for contributions, provided that the persons solicited are informed of the political purposes of the fund and that the guidelines are merely suggestions, that the individual is free to contribute more or less than the suggested amount, and that the corporation will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute. See 2 U.S.C. 441b(b)(3) and 11 CFR 114.5(a).

Because the guideline contained in the combined solicitation and authorization form meets the requirements of 114.5(a), and because the deduction system applies to amounts that are

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<sup>2</sup> You note that the number of preferred shares upon which the March 31 deduction is based will be fixed for each year but may vary from year to year. Thus, there will be no occasion to refund a contribution if the number of preferred shares held by the shareholder decreases during the year.

payable by the Company to the shareholders for their crops, the proposed contribution deduction method is permissible. Of course, regardless of the number of preferred shares owned by an individual shareholder, a shareholder's contributions to the political committee may not exceed the \$5,000 per year limit set forth at 2 U.S.C. 441a(a)(1)(C) and may not, when aggregated with the shareholder's contributions to other political committees, exceed the \$25,000 per calendar year limit set forth at 2 U.S.C. 441a(a)(3).

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