



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 27, 1986

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1986-20

Ms. Jacqueline Balk-Tusa
Administrative Assistant to Senator Mark Andrews
724 Hart Senate Office Building
Washington, D.C. 20510

Dear Ms. Balk-Tusa:

This responds to your letters of June 4 and June 6, 1986, requesting an advisory opinion on behalf of the "People for Mark Andrews" Committee ("the Committee"), the principal campaign committee of Senator Mark Andrews, a candidate for re-election to the United States Senate in 1986, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the distribution of small bags of bran along with a recipe for bran muffins.

According to your request, the Committee intends to purchase 3,000 pounds of bran at the market price of less than \$100 per ton. The bran will then be packaged in bags containing less than one pound. You state that these bags, made of heavy gauge plastic, will be nine inches long and six inches wide and will be imprinted in two colors, blue and red, on one side. The other side of the package will be blank and will contain a detachable recipe-size card. This card will have the Committee's campaign logo on one side and a copy of Mrs. Andrews' bran muffins recipe on the other. Both the bran package label and the recipe card will bear the Committee's disclaimer notice, "Paid for by the People for Mark Andrews." You note that the Committee will pay the usual and normal charge for milling and packaging the bran. You add that the estimated cost of each completed package of bran is 35 cents.

Your request also states that the Committee plans to distribute these packets of bran from campaign booths at North Dakota county and state fairs from July through September, 1986. The bran will be prominently displayed at the booths and will be distributed to anyone who requests a package. You state that no "political solicitation" of any kind will accompany this activity.

You ask whether the proposed distribution of bran is permissible under the Act.

The Commission concludes that nothing in the Act or Commission regulations would prohibit the proposed purchase, packaging, and distribution of the bran. The Commission has stated in numerous advisory opinions that a candidate has wide discretion in the use of campaign funds. See Advisory Opinion 1984-8 and other advisory opinions cited therein. In a somewhat similar situation, the Commission concluded that a candidate's distribution of pennies enclosed in a cardboard or felt casing imprinted with a campaign slogan was not prohibited under the Act. Advisory Opinion 1980-93. See also Advisory Opinion 1980-14.

The Commission notes that any expenditures related to the proposed purchase and distribution of the bran should be reported as "operating expenditures" on line 17 of FEC Form 3. 2 U.S.C. 434(b)(4)(A) and 11 CFR 104.3(b)(2)(i). Payments to any person aggregating in excess of \$200 within the calendar year must be itemized on Schedule B. 2 U.S.C. 434(b)(5)(A) and 11 CFR 104.3(b)(4)(i).

The Commission expresses no opinion as to the possible applicability of any other Federal or state statutes to the situation you present because those issues are outside its jurisdiction.

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 1984-8, 1980-93, and 1980-14)