



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

March 20, 1987

CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1987-6

Thomas Daly, Counsel  
American Chiropractic Association  
1701 Clarendon Boulevard  
Arlington, VA 22209

Dear Mr. Daly:

This responds to your letter of February 2, 1987, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use of a combined billing statement by the American Chiropractic Association ("ACA") for billing membership dues and soliciting voluntary political contributions.

You state that the American Chiropractic Association is an association representing over 22,000 members nationwide.\*/ The association's separate segregated fund is the American Chiropractic Association Political Action Committee ("ACA-PAC"). ACA proposes to send its members a membership dues billing that also includes a contribution solicitation for ACA-PAC. You describe the statement as including both ACA membership dues of \$400 and a suggested voluntary contribution to ACA-PAC of \$100. The dues and suggested contribution are included in the same sum (\$500) on the statement. The pertinent portion of the billing statement was reproduced in your request and is incorporated herein (copy attached) as part of this opinion. Additionally, you state that ACA intends to enclose with the billing statement a disclosure notice stating:

"Voluntary contributions to ACA-PAC are not limited to suggested amount. A member may contribute more or less than the suggested amount and a contribution, or the lack of, will not affect the member status with the American Chiropractic Association. Corporate Donations to the ACA-PAC are prohibited".

You ask if the use of this combined billing/solicitation statement is permissible under the Act and regulations.

The Act and regulations prohibit a separate segregated fund, such as ACA-PAC, from making a contribution or expenditure from funds received as dues, fees or other monies received as a condition of membership, regardless of whether the funds so received may be refunded upon request of the payor. 2 U.S.C. 441b(b)(3)(A) and 11 CFR 114.5(a). In soliciting contributions to a separate segregated fund from the membership of the sponsoring corporation, the Act and regulations require that the person being solicited is informed as to the political purpose of the fund and of his or her right to refuse to contribute without reprisal. These conditions must be stated at the time of the solicitation. 11 CFR 114.5(a)(3), (4), (5); see 2 U.S.C. 441b(b)(3). The regulations also require that a solicitation suggesting a guideline for contributions must inform the person being solicited that the guideline is merely a suggestion; that he or she is free to contribute more or less than the guideline suggests; and that the amount of the contribution or refusal to contribute will not affect the individual favorably or unfavorably. Additionally, the guideline may not be enforced by the soliciting corporation or its separate segregated fund. 11 CFR 114.5(a)(2).

The billing statement proposed by ACA is a combined solicitation for ACA membership dues and political contributions to ACA-PAC. In previous advisory opinions, several specific proposals for combining contribution solicitations with dues (or membership fees) statements have been approved by the Commission. See Advisory Opinions 1982-61, 1982-55, 1982-11, 1981-4, 1979-19, and 1978-42. For the following reasons, the statement as submitted by ACA is materially distinguishable from the cited opinions and does not conform with the Act and regulations.

In particular, the statement fails to notify the member of the political purpose of ACA-PAC. Such a statement is required by the regulations at the time of solicitation. 11 CFR 114.5(a)(3). Secondly, the manner in which the statement is arranged appears to enforce the guideline for voluntary contributions. Specifically, the \$100 voluntary contribution guideline is included in the column labeled "membership dues". Only by the placement of an asterisk next to the \$500 amount is one informed that the membership dues includes the \$100 voluntary contribution "unless otherwise requested." There are not separate blocks showing the suggested amount, or allowing write-in of a different amount if the \$100 contribution is declined. The block at the far right reinforces the obligatory aspects of the guideline in that it states a "Total Due" which includes the ACA-PAC contribution. Additionally, the statement itself provides no instructions for increasing or decreasing the amount of the contribution, or opting not to contribute at all.

Thus, the proposed combined ACA billing statement and voluntary contribution solicitation for ACA-PAC would not be permissible under the Act and regulations.

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,

(signed)

Scott E. Thomas  
Chairman for the Federal Election Commission

Enclosures (1982-61, 1982-55, 1982-11, 1981-4, 1979-19, and 1978-42)

Attachment (page 1 of AOR)

\*/ As was noted in Advisory Opinion 1982-11, ACA is a nonprofit incorporated professional association.