



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 26, 1987

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1987-17

Warren E. Newberry
Texas Farm Bureau
P.O. Box 2689
Waco, Texas 16702-2689

Dear Mr. Newberry:

This refers to your letter dated May 22, 1987, requesting an advisory opinion on behalf of Texas Farm Bureau Friends of Agriculture Fund, Inc. ("AGFUND") with respect to application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a combined membership dues and contribution solicitation procedure of the Texas Farm Bureau.

Your request indicates that AGFUND is the separate segregated fund of the Texas Farm Bureau, a nonprofit, incorporated membership organization exempt from Federal income taxation under 26 U.S.C. 501(c)(5). You explain that the Texas Farm Bureau proposes to solicit voluntary contributions to AGFUND from its individual members when it bills those members for their annual membership dues. The proposed membership dues statements contain three lines in vertical arrangement. The top line specifies the amount of "(1.00)" and also gives a brief explanation: "AGFUND VOLUNTARY CONTRIBUTION(S) (SUGGESTED) (SEE ENCLOSURE)." The second line is "Membership Dues20.00" and the third line states "Total Amount21.00".

The enclosure is a single page insert to be mailed in the same envelope with each membership billing statement. This insert has an enlarged, bold-print caption stating: TEXAS FARM BUREAU AGFUND. The text is a narrative notice (consisting of 16 lines) that describes the political purpose of AGFUND, explains that the \$1 voluntary contribution amount printed on the dues statement is only a suggestion, and that more or less than \$1 may be contributed. The notice further states that the Texas Farm Bureau (and "your County Farm Bureau") will not favor, disadvantage, or take reprisal by reason of the amount of a person's contribution or a decision not to contribute any amount to AGFUND.

You ask whether the proposed membership dues billing statements, and the AGFUND solicitation notice, are permissible under the Act and Commission regulations.

The Act and regulations prohibit a separate segregated fund, such as AGFUND, 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 contribution or refusal to contribute will not affect the individual favorably or unfavorably with the membership organization. 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 the Texas Farm Bureau is a combined solicitation for Texas Farm Bureau membership dues and political contributions to AGFUND. 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, and 1981-4. (Compare Advisory Opinion 1987-6 where the Commission concluded that the combined billing statement with contribution solicitation was improper.) For the following reasons, the statement submitted by you is materially indistinguishable from the cited opinions and complies with the Act and regulations; it is also distinguishable from Advisory Opinion 1987-6.

In particular, the statement notifies the member of the political purpose of AGFUND. Such a statement is required by the regulations at the time of solicitation. 11 CFR 114.5(a)(3). Furthermore, the manner in which the statement is arranged emphasizes the suggestive nature of the guideline for voluntary contributions. Specifically, the \$1 voluntary contribution is set off by parenthesis, is included on a separate line from the dues line, and is labeled "AGFUND VOLUNTARY CONTRIBUTION(S)."

The first line makes an explicit reference to an enclosed notice which sets forth a comprehensive statement (summarized above) as to the political purposes of AGFUND and the voluntary nature of the contributions being solicited. In addition, the second line of the three line statement is a separate and distinct breakout of the \$20 membership dues amount. The third (or bottom) line depicts a "Total Amount" of \$21 which includes the suggested \$1 AGFUND contribution, but does not state that \$21 is the total sum the member is obligated to pay to continue his or her membership in the Texas Farm Bureau. When considered in context with the caption on the first line of the statement, and given the space proximity of all three lines, the statement conveys a clear distinction between the membership dues portion of the total and the suggested AGFUND contribution. This membership dues/contribution statement, both as to content and composition,

is permissible under Commission regulations, and for the reasons stated, is distinguishable from the dues statement held to be improper in Advisory Opinion 1987-6.

The Commission notes that solicitations for contributions to AGFUND must otherwise comply with the Act and regulations, including the requirement that individuals who are solicited on the basis of their membership in the Texas Farm Bureau must meet the Commission's standard for membership. See 11 CFR 114.1(e) and 114.7. See also Advisory Opinions 1987-5, 1984-22, and opinions cited therein.

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 of the Federal Election Commission

Enclosures (1987-6, 1987-5, 1984-22, 1982-61, 1982-55, and 1982-11 and 1981-4)