



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 5, 1990

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1990-10

Carolyn F. Bigda
Williams & Jensen
1101 Connecticut Ave., N.W.
Washington, D.C. 20036

Dear Ms. Bigda:

This responds to your letters dated May 11 and May 23, 1990, as supplemented by your letter of July 25, 1990, requesting an advisory opinion on behalf of the Texas Air Corporation PAC ("TACPAC")^{1/} concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the affiliation of the committee with the separate segregated fund of Texas Air's subsidiary, Eastern Airlines, Inc.

You state that Texas Air owns 100% of the stock of Eastern Airlines. TACPAC has reported to the Commission that it is affiliated with Eastern Airlines Political Action Committee.^{2/}

Currently, Eastern Airlines is involved in bankruptcy proceedings. On March 9, 1989, Eastern Airlines (along with its affiliate, Ionosphere Clubs, Inc.) filed a voluntary petition for relief under Chapter 11 of title 11, United States Code. The business was operated by Eastern Airlines as a debtor-in-possession until April, 1990, when the U.S. Bankruptcy Court for the Southern District of New York issued an order approving the appointment of a trustee.

You state that the court order "prohibit[s] Texas Air from any further involvement in management and decisionmaking for Eastern" and that, "[i]n TACPAC's unique situation, the parent in fact exercises no control over the subsidiary." You also assert that Texas Air is unable to vote its stock or to exert pressure or authority in any way over Eastern officers or members. You further contend that a possible outcome of any reorganization plan will be the substantial reduction or elimination of Texas Air's stock ownership in Eastern.

You state that the court order supersedes any bylaws or other documents that may indicate the authority of Texas Air to direct Eastern. You also maintain that similar patterns of contributions are unlikely "since there is no coordinating communication between persons administering the two PACs." Finally, you state that transfers of funds between the two committees would be prohibited by the court order.

You request an advisory opinion as to whether TACPAC and Eastern Airlines PAC are no longer affiliated.

The Act and Commission regulations provide that committees, including separate segregated funds, that are established, financed, maintained or controlled by the same corporation, person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated. Contributions made to or by such committees shall be considered to have been made to or by a single committee. 2 U.S.C. 441a(a)(5); 11 CFR 100.5(g)(2), 110.3(a)(1), and 110.3(a)(1)(ii). Under this rule, committees established by a single corporation and its subsidiaries are affiliated per se. 11 CFR 110.3(a)(2)(i). Therefore, until the parent/subsidiary relationship is legally severed, the Commission considers Eastern's political committee to be affiliated with the political committee of Texas Air.^{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,

(signed)

Lee Ann Elliott
Chairman for the Federal Election Commission

Enclosures (AOs 1989-16, 1987-21, and 1986-42)

1/ On June 11, 1990, Texas Air changed its name to Continental Airline Holdings, Inc. On July 3, the Commission received an amended Statement of Organization indicating that TACPAC's name had been changed to Continental Holdings Political Action Committee. In this advisory opinion, the Commission will continue to refer to the company as Texas Air based upon the use of that name in the original request letters.

2/ Both TACPAC and Eastern Airlines PAC filed amended Statements of Organization in late July, 1987, each designating the other committee as affiliated.

3/ Because of your per se affiliation, the Commission views its consideration of situations in which the question of disaffiliation arose as a result of corporate restructuring to be inapplicable. (See Advisory Opinions 1989-16, 1987-21, and 1986-42 where questions of disaffiliation were discussed by the Commission.)