



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 1, 1991

CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1991-28

Megan L. Garrett  
Golden Rule Financial Corporation PAC  
7440 Woodland Drive  
Indianapolis, Indiana, 46278-1719

Dear Ms. Garrett:

This responds to your letter dated August 23, 1991, requesting an advisory opinion on behalf of the Golden Rule Financial Corporation ("Golden Rule") and its separate segregated fund, Golden Rule PAC, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to proposed solicitations to Golden Rule employees.

You state that Golden Rule and the Golden Rule PAC wish to exercise their option to solicit Golden Rule employees other than stockholders, executive or administrative personnel, or their families on a twice-yearly basis as allowed by 11 CFR 114.6. You state that you would like to utilize the growing popularity of videotape in the solicitations by including a videotaped solicitation along with the written solicitation you plan to send.

The videotape, you state, would include, among other items, verbal recitations of all the elements required of a written solicitation by 11 CFR 114.5(a)(5) and 114.6(c). The letter accompanying the videotape would also comply with all such requirements. The videotape would contain the same information and follow the same processes as the traditional letter solicitation. The solicitee would not be required to return the videotape, but could instead decide not to view the tape and could dispose of it. The sole difference, you state, between the traditional letter solicitation and the planned solicitation is that it contains a videotaped portion. You ask whether this solicitation is permitted under the Act and Commission regulations.

The Act and Commission regulations allow a corporation, or a separate segregated fund established by a corporation, to solicit voluntary contributions to the fund from the corporation's stockholders, its executive and administrative personnel, and the families of such persons. 2

U.S.C. 441b(b)(4)(A)(i); 11 CFR 114.5(g)(1). The Act and regulations also permit two written solicitations in a calendar year to other employees. 2 U.S.C. 441b(b)(4)(B); 11 CFR 114.6(a). The corporation, however, must make such written solicitations by mailing them to an employee's residence and pursuant to a custodial arrangement that ensures the anonymity of those wishing to contribute less than \$50 in any single contribution or those not wishing to contribute at all. 11 CFR 114.6(c) and (d). See also Advisory Opinions 1990-25, 1977-56 and 1977-49.

A review of the legislative history of the 1976 amendments to the Act indicates that the primary motivation for all the restrictions, including the requirement that the solicitation be in writing rather than oral, was to protect the anonymity of the solicitee and remove any potentially coercive element. As Senator Cannon noted during the Senate debate concerning the solicitation of employees, the restrictions were:

"so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not. This restriction is a valuable protection against person-to-person coercion, and provides a degree of anonymity so corporations or unions cannot set up elaborate systems to monitor who contributes and who does not."

Cong. Rec. S4151 (daily ed. March 24, 1976) (statement of Sen. Cannon) reprinted in Legislative History of Federal Election Campaign Act Amendments of 1976, at 493 (1977).<sup>1</sup>

In the factual situation you have presented, the videotape is apparently meant to augment a written solicitation. The Commission notes your statement that all the requirements pursuant to 11 CFR 114.5(a)(5) and 114.6(c) will be followed with regard to both the video and written portions of the solicitations. Provided that the custodial requirements of 11 CFR 114.6(d) are followed as well, the solicitation would appear to protect the anonymity of the solicitee. In these circumstances if all the above requirements are met, the Commission concludes the proposed solicitation would be permitted under the Act and Commission regulations.<sup>2</sup>

This response constitutes an advisory opinion concerning the 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)

John Warren McGarry  
Chairman for the Federal Election Commission

Enclosures (AOs 1990-25, 1977-56 and 1977-49)

1/ While the Senate bill permitted limited corporate and union solicitation of employees, the House version did not. In conference, further safeguards were placed on the solicitations. During the Senate debate on the conference bill, Senator Cannon further related the requirement for a written solicitation to the need to ensure the anonymity of the contributor. See Cong. Rec. S6477 (daily ed. May 4, 1976) (statement of Sen. Cannon) reprinted in Legislative History of Federal Election Campaign Act Amendments of 1976, at 1107 (1977).

2/ The Commission notes that Golden Rule is also required to make available to a labor organization representing any members, who are employees of Golden Rule (or its subsidiaries, branches, divisions, or affiliates), any method of solicitation which it uses to solicit its employees under the twice yearly procedures of 11 CFR 114.6. See 11 CFR 114.6(e)(3).