

**SUNDSTRAND
GOOD
GOVERNMENT
PROGRAM** 

RECEIVED
F.E.C.
SECRETARIAT

51 NOV -5 PM 3:22

4949 HARRISON AVENUE, PO BOX 7003, ROCKFORD, ILLINOIS 61125 815/226-7674

November 1, 1991

Federal Election Commission
999 E Street NW
Washington, D.C. 20463

Supplement To
AOR 1991-29

Dear Members of the Federal Election Commission:

Thank you for considering my request for an Advisory Opinion with regard to the operation of the Sundstrand Corporation Good Government Pledge Program. I took the opportunity to attend the hearing yesterday (October 31, 1991) during which there were several questions and uncertainties about aspects of our program. I hope that you would consider the following information in an attempt to clarify our program.

First, our program is simply designed to provide broader and increased individual involvement in the political process. This effort, I believe, addresses most of today's criticisms of PACs which say that the political process is dominated by a few. In fact, I believe if more PACs were structured like Sundstrand's, we would generate greater participation from all sectors of society.

During your discussion, it was suggested that we consider our program to be a PAC. In fact, Sundstrand Corporation has two federally registered political action committees as was correctly indicated. However, the question is: at what point should a collection of funds be considered to be regulated under the FECA?

Payroll Deductions to Individually Controlled Accounts Are Not PAC Contributions

A contribution is defined under 11 CFR § 100.7 Contribution (2 U.S.C. 431 (8)) as: "a gift, subscription, loan (except for a loan made in accordance with 11 CFR 100.7 (b)(11)), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."

Commissioner Josefiak is correct in his view that you should not consider deposits to individually controlled accounts as SSF funds, because legally no one but the individual controls his or her funds. In the case of our program, the Participation Card (see Attachment A) guarantees that the funds remain under the original depositor's control until he or she decides otherwise. Since neither the corporation nor the SSF can access the funds without violating this guarantee, these funds are not encumbered by either and

therefore cannot be used for the purposes of influencing federal elections by the SSF. Those funds stay there until the original depositor withdraws them for personal reasons, terminates his or her employment, or authorizes a contribution to the SSF and indicates to whom the money should go to, which could include the affiliated PAC. But until the SSF actually receives a contribution and legal control of the funds, it should not be required to report the personal account balances of individuals.

As for whether the SSF could change the bylaws to gain access to the funds, such a change is not possible for it would contradict the guarantee which states "my contributions to the Program will remain my personal property, and will be disbursed solely at my instructions." It reads further that funds will be returned automatically upon termination of employment or in the event of death.

A Contribution is Made When the SSF Receives a Check Request

Since these deposits to individual accounts are not contributions to Sundstrand's SSF, then the question comes "at what point is a contribution made to the SSF?" A contribution is made to the SSF when the individual completes a "check request form" (see Attachment B) which authorizes the drawing of a check to a federal candidate, party of political action committee. At that point, the SSF receives a contribution and can legally access the specified funds. However, if the individual requests, as is frequently the case, a check be made payable from his or her account back to himself or herself, then a contribution was never made to an SSF.

A statement was also made during the hearing which was: "the mere fact that the contributors are consulted about how the PAC dollars are to be spent does not mean that the dollars are earmarked." First, suggesting that contributors are only consulted implies that they do not have decision making authority over their own accounts. What might be considered "consulting" is *actually a solicitation for a contribution to the SSF*. As to the discussion of earmarking, we are not necessarily interested in the benefits of earmarking, which is why we have considered the ultimate contribution to the SSF a PAC receipt and the ultimate contribution to the individually specified candidate a PAC disbursement.

Reporting All Account Transactions Would Include Personal, Non-Political Activity

As Vice Chairman Aikens said, why don't we just consider the initial deposits into the individual accounts to be contributions to the SSF without regard to where the direction comes from in determining the ultimate recipient. This also leads to the question of motive for Sundstrand to operate its program this way.

Certainly, with the consent of our members, we could track and report each member's deposits to his or her individual accounts as PAC contributions and refund monies at his or her request. The dilemma is simply a question of excessive administrative burden with questionable contributions to the process. For us to consider the cumulative funds in the individual accounts contributions to the SSF, and therefore reportable as defined by the FECA, all non-political, personal withdrawals would require reporting. Our experience

has been that the volume of personal withdrawals (such as those during the Christmas season or for charitable purposes) is significant and would make operating such a program burdensome to the point of possibly discontinuing the program. This would serve as a disincentive for other companies and force them to operate traditional programs whereby PAC contribution decisions are most likely made by a select few rather than by the original contributors.

I agree with Vice Chairman Aikens, let's not regulate to the "nth" degree. The simple fact that an individual voluntarily decides to set aside funds with the possibility of deciding to contribute some of those funds to an SSF at some later date should not require regulation.

In the General Counsel's draft opinion and in Commissioner Elliott's memorandum (Agenda Document #91-111-A), it is suggested that our effort to promote individual involvement is an "incentive device." From our perspective, individual involvement is not merely an incentive device. We truly wish to expand involvement in the political process through individual education and participation. Our relatively high percentage of participation demonstrates that our eligible employees appreciate the opportunity.

One last note, Commissioner Elliott asked about what form a contribution from the PAC took. Once a contribution is made to the SSF with the individual indicating the recipient, a check (see Attachment C) is drawn and is made payable to the candidate, party or committee as specified on the check request. The check includes the name of the individual and the name of the program. A letter accompanies the check(s) that indicates to the recipient that the contribution represents contribution(s) from member(s) of the Sundstrand Good Government Program. In cases where several members contribute to the same recipient, a check is sent for each individual who directed a contribution.

Thank you in advance for your patient consideration of this advisory opinion. I offer my availability to clarify any further misunderstandings.

Sincerely,



Bradley J. Conidine
Corporate Manager, Public Affairs

Attachment A

**SUNDSTRAND
GOOD
GOVERNMENT
PROGRAM**

PARTICIPATION

**Sundstrand Good Government Program
4049 Harrison Avenue, P.O. Box 7003
Rockford, IL 61125**

Attn: Bradley J. Considine, Treasurer

- YES!** I would like to join the Sundstrand Good Government Program and begin receiving the benefits of membership.
- No,** I do not wish to join the Program at this time.

I have read and understand the by-laws of the Sundstrand Good Government Program. I understand that my contributions are voluntary and may be made through payroll deductions, and that I have the right to refuse to contribute without reprisal.

My contributions to the Program will remain my personal property, and disbursed solely at my instructions. In the event of dissolution of the Program, any residual funds being held for me shall be returned. Also, in the event of the termination of my employment by retirement, resignation or otherwise, any undesignated contributions shall be returned as soon as practicable after I have notified the Treasurer of the termination of my employment. In the event of my death: (Check one square)

- Funds should be paid to my designated beneficiary under the company's Group Life Insurance Plan.**
- Funds should be paid to: _____**

Name (Type or Print) _____

Signature _____

Title _____ Soc. Sec. # _____

Sundstrand Div./Loc./Dept. # _____

Home Address _____

Date _____

300487/0191

Attachment B

Check Request

Date _____

**Sundstrand Good Government Program
Bradley J. Considine, Treasurer
4949 Harrison Avenue, P.O. Box 7003
Rockford, Illinois 61125**

I hereby authorize and direct you as Treasurer of the Sundstrand Good Government Program to draw a check from the funds accumulated in my account in the amount of \$_____ payable to:

(Candidate or Committee)

(Title of Office)

(Address, if available)

Signature _____

Name (Print) _____

Social Security No _____

Division _____ Dept. No. _____

Address (if changed) _____

City _____ State _____ Zip _____

_____ Mail check directly to payee.

_____ Return check to me at dept. _____

Political contributions do not qualify as charitable contributions for federal income tax purposes.

Please note: You have the right to refuse to contribute without reprisal. Recommended contribution amounts are merely suggestions and you are free to contribute more or less than the guideline suggests. The amount of your contribution or your refusal to contribute, will not be of benefit or disadvantage to you.

300601/0101

Attachment C

**SUNDSTRAND
GOOD
GOVERNMENT
PLEDGE
PROGRAM**



4721 HARRISON AVE
P.O. BOX 7000
ROCKFORD IL 61122

V - 0 - I - D

78-48
718

NO. 016083

AMERICAN NATIONAL SAVER AND THRIFT CO.
MEMBER FDIC

PAY TO THE ORDER OF: Josephak for Congress Committee

PAY EXACTLY **250015**

11-04-91

001

\$ 25.00

BY: Bradley J. Considine
CORPORATE - ROCKFORD
A MEMBER OF THE SUNDSTRAND GOOD GOVERNMENT PLEDGE PROGRAM



TREASURER

#016083 #0719004561 #0 057 699