

JAMES BOPP, JR.
Senior Associates
RICHARD E. COLESON
BARRY A. BOSTROM

Associates
ROBERT J. NEWMAYER'
JOHN K. ABEGG
SCOTT M. LUCAS
PAUL R. SCHOLLE'
GLENN M. WILLARD'
HEIDI K. MEYER'
JAMES R. MASON, III'
'admitted in Cal. & Okla. only
'admitted in Ind. & Penn.
'admitted in Colo. & Mich. only
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BOPP, COLESON & BOSTROM

ATTORNEYS AT LAW
1 South 6th Street
TERRE HAUTE, INDIANA 47807-3510
Telephone 812/232-2434 Facsimile 812/235-3685
E-mail jboppjr@aol.com

Washington Office
Suite 1000
1325 Pennsylvania Ave., N.W.
WASHINGTON, DC 20006
Telephone 202/785-9500
Facsimile 202/835-0243

Of Counsel
THOMAS J. MARZEN

July 9, 1998

Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Advisory Opinion
Request

AOR 1998-16

To Whom It May Concern:

Pursuant to 2 USC § 437f and 11 CFR Part 112, I hereby request an advisory opinion on behalf of my client, Restoring the American Dream, concerning the application to its activities of 2 U.S.C. § 431(8) & (9), § 441b and 11 CFR 114.1(a) and 114.2, which define and prohibit a contribution or expenditure by a corporation in connection with any election.

Specifically, my client requests that, based on the facts outlined below, the Commission provide a response to the following question:

Do § 431(8) & (9) and § 441b, which provide that a corporation is prohibited from making any contribution or expenditure in connection with any election, encompass within its definition and prohibition, the providing of mandatory security protection by executive security officers, employed by the corporation, to corporate officers while the corporate officers are conducting business for a political action committee?

FACTS

Richard M. DeVos, Jr. is the President of AMWAY. AMWAY executives are required by AMWAY to have an executive security officer present during all travel away from the office headquarters to maximize protection and to minimize the risk of assault and kidnapping of executive officers and their family members. In order to protect its corporate executives, AMWAY provides security no matter where, or in what capacity, the AMWAY executives are traveling. The salaries and travel expenses of the executive security officers are paid by AMWAY. Travel by executive officers is required to be aboard corporate aircraft whenever appropriate corporate aircraft is available.

Richard M. DeVos, Jr. is also Chairman of Restoring the American Dream, a political action committee. This committee is not connected to AMWAY. As Chairman of Restoring the American Dream, he is often required to travel in order to conduct the business of the committee.

LEGAL ANALYSIS

The first question which the Commission is asked to answer, is whether the payment of the salary and travel expenses of the executive security officers by the corporation for the mandatory protection of its officers, who are conducting business for the political committee, constitutes a contribution or expenditure under § 441b or any other applicable section of the Act. The second question which the Commission is asked to answer is whether the rendering of protection services to AMWAY officers and the payment of these protection services and travel expenses by the AMWAY corporation is included in the phrase "anything of value" in § 431(8)(A)(i).

This question arises because of the ambiguity of the wording of § 431(8)(A)(ii). Specifically, it is not clear from the wording of this requirement whether "the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose" encompasses the payment by any person of compensation for the personal services of another person (the executive security officer) which are rendered to the person (the officer of the political committee) and not directly to the political committee.

The rendering of protection services to AMWAY executive officers, who are conducting political committee business, provides no benefit to the political committee. There is nothing of value received by the political committee from the protection of the executive officer.

My client would argue that the proper interpretation of § 431(8) & (9) and § 441B would not encompass the payment of the salary and travel expenses of an executive security officer by a corporation who accompanies a corporate officer who is also an officer of a political action committee. These sections would not encompass the payment of an executive security officer's salary and travel expenses because the protection service is not rendered to the political committee, but to the individual, and there is nothing of value received by the political committee from the rendering of this protection.

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If you have any further questions regarding this request,
please advise.

Sincerely,

BOPP, COLESON & BOSTROM

A handwritten signature in black ink, appearing to read "James Bopp, Jr.", written over the printed name.

James Bopp, Jr.