



AMERICAN SOCIETY OF ANESTHESIOLOGISTS

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COMMISSION MAIL ROOM

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January 24, 2000

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

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Members of the Commission:

This request for advisory opinion is submitted on behalf of the American Society of Anesthesiologists (ASA), pursuant to 2 U.S.C. §437f. ASA is a national medical society, the membership of which consists of some 34,000 physicians and other scientists engaged or especially interest in the medical practice of anesthesiology. To become an ASA member, an individual must be a member of a state component society chartered by ASA's Board of Directors. ASA is a not-for-profit New York corporation, and is exempt from income tax under section 501(c)(6) of the Internal Revenue Code.

Since 1991, ASA has maintained the American Society of Anesthesiologists Political Action Committee (ASAPAC) as a separate segregated fund organized and operated pursuant to the Federal Election Campaign Act of 1971 and regulations of the Commission issued thereunder.

In an effort to increase its visibility with the ASA membership, ASAPAC proposes to host a series of receptions for ASA members, held in conjunction with meetings and conventions for ASA members. Only members of ASA would be invited to the receptions. ASAPAC proposes to pay for the costs of issuing invitations, providing refreshments, and room-rental, if any.

ASAPAC proposes to invite candidates for election to the U.S. House of Representatives or Senate to make appearances at these receptions. The candidates would be permitted to ask for contributions to their campaigns. Before and during the reception, ASAPAC proposes expressly to advocate support for the candidacy of the invited speaker and to suggest that ASA members contribute to the candidate's campaign. Any contributions to the candidates' campaign would be collected by the candidate or his/her campaign staff, not by representatives of ASAPAC.

ASAPAC believes the proposed activity is similar to that specifically permitted by corporations in the Regulations of the Commission. 11 C.F.R. §114.3(c)(2). Consequently, ASAPAC believes that pursuant to 11 C.F.R. §114.2(c), the proposed disbursements for invitations, refreshment and room-rental are not deemed "contributions" or "expenditures" as defined respectively in 11 C.F.R. §100.7 and 100.8.

ASA seeks the Commission's opinion on two matters: first, whether the fact that the disbursements will be made by ASAPAC rather than the corporation -- ASA -- somehow vitiates that authorization made by the above-referenced Commission regulations; and second, whether under these circumstances ASA, or alternatively ASAPAC, should report the disbursement to the Commission as a "communication" pursuant to 11 C.F.R. §104.6(a) or whether ASAPAC should report the disbursements as an "operating expenditure" pursuant to §104.3(b)(3)(i).

ASA believes that inasmuch as ASAPAC is a separate segregated fund of ASA but nonetheless a part of ASA, the regulatory authorization to make these disbursements extends to ASAPAC as well as ASA itself. Consistent with this interpretation, ASA also believes that reporting of the disbursement as something other than a "contribution" or "expenditure" to the Commission should be accomplished by ASAPAC, not ASA.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Scott".

Michael Scott, Director
Governmental and Legal Affairs