



FEDERAL ELECTION COMMISSION
Washington, DC 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

March 10, 2006

ADVISORY OPINION 2006-1

Mr. Douglas Boxer, Committee Director
Pac for a Change
300 Frank Ogawa Plaza
Suite 500
Oakland, CA 94612

Dear Mr. Boxer:

We are responding to your advisory opinion request on behalf of Pac for a Change (“the Committee”) concerning the application of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations to the Committee’s purchase of books written by a Federal officeholder at a discounted rate from the publisher, and the Committee’s use of those books as a gift for persons who raise at least \$100 for the Committee. The Commission concludes that the Committee may purchase the books at the discounted rate offered by the publisher.

Background

The facts presented in this advisory opinion are based on your letter received on January 11, 2006.

The Committee is a non-connected multicandidate committee registered with the Commission. The Committee proposes to purchase a sizeable number of copies of “A Time to Run,” a novel written by Senator Barbara Boxer, from the publisher, Chronicle Books, a limited liability company. Chronicle Books will charge the Committee for the books at a price that is less than the suggested retail price, but that is the standard price Chronicle Books charges other large purchasers. Senator Boxer will sign each book, and the books will then be offered to any person who raises at least \$100 for the Committee in a certain time period.

Question Presented

May the Committee purchase copies of Senator Boxer’s book from the publisher at the discounted price the publisher charges other large purchasers?

Legal Analysis and Conclusions

The Commission concludes that the Committee may purchase from the publisher copies of “A Time to Run” at the same discounted rate paid by other large purchasers. This conclusion is based on the Committee qualifying for the discounted price as any other bulk purchaser would qualify.

The Committee’s purchase of the books at a discounted rate raises the issue of whether the publisher is making an in-kind contribution to the Committee. The term “contribution” includes giving “anything of value” for the purpose of influencing an election. 2 U.S.C. 431(8)(A)(i) and 441b(b)(2); 11 CFR 100.52(a) and 114.1(a)(1). The term “anything of value” includes the provision of goods or services at less than the usual and normal charge. 11 CFR 100.52(d)(1). The “usual and normal charge” for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution. 11 CFR 100.52(d)(2). In the past, the Commission has concluded that the purchase of goods or services at a discounted rate does not constitute a contribution when the discounted items are made available in the ordinary course of business and on the same terms and conditions offered to the vendor’s other customers that are not political committees. *See* Advisory Opinions 2004-18, 2001-08, 1996-02, 1995-46, 1994-10, and 1993-20. According to your request, the Committee will pay the usual and normal charge for this type of bulk purchase from the publisher. Thus the publisher would not be making an in-kind contribution to the Committee in this transaction.

Based on the foregoing analysis, the proposed activity is permissible under the Act and Commission regulations. The amounts spent by the Committee for the purchase of the books should be reported as operating expenditures for the 2006 election cycle. 2 U.S.C. 434(b)(4)(A) and (5)(A); 11 CFR 104.3(b)(3)(i).

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 2 U.S.C. 437f. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity.

Sincerely,

(signed)

Michael E. Toner
Chairman

Enclosures (Advisory Opinions 2004-18, 2001-08, 1996-02, 1995-46, 1994-10, and 1993-20)