



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

January 16, 1981

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-137

Mr. Don L. Richardson  
10635 IH 35 North  
San Antonio, Texas 78233

Dear Mr. Richardson:

This responds to your letter received November 17, 1980, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to your use of a company's personnel and equipment to comply with the reporting requirements of the Act.

According to your request, you are a Republican candidate for the United States Senate. You are also the founder and President and are currently employed by Logic Systems Inc., a Texas corporation, ("the Company"), which provides on-line accounting services and operates computer centers. You explain that you designed and wrote many of the Company's accounting programs such as accounts receivable and general ledger software systems and now propose to modify and use these programs to comply with the reporting requirements of the Act. You further propose to use the Company's personnel and computer equipment to help enter the data and produce the required reports. You plan to use the computer-produced schedules of contributions and expenditures for your campaign reports. You raise the question whether your plans to use Company personnel, including your own time and effort as a company employee, and computer equipment for accounting services would violate either the Act or Commission regulations concerning corporate contributions.

If the services rendered to your campaign through your use of Company personnel who will be paid by the Company to do this work, including your own time and effort, and the coincidental use of computer equipment relate only to compliance with the Act, then the use of personnel and equipment as proposed would not constitute a corporate contribution from the Company. Although 2 U.S.C. 441b prohibits a corporation from making a contribution or expenditure in connection with a Federal election, the Commission's regulations specifically exclude certain activity from the definition of contribution and expenditure. Specifically, under 11 CFR 114.1(a)(2)(vii) the term "contribution and expenditure" does not include:

The payment for legal and accounting services rendered to or on behalf of an authorized committee of a candidate or any other political committee for the purpose of ensuring compliance with the Act or chapter 95 or 96 of the Internal Revenue Code if the corporation paying for the services is the regular employer of the individual rendering the services, but amounts paid or incurred for these services shall be reported in accordance with Part 104. This exclusion shall not be applicable if additional employees are hired for the purpose of rendering services or if additional employees are hired in order to make regular employees available.

In Advisory Opinion 1979-22 the Commission recognized that amounts paid by a Committee to a law firm for use of a law firm's resources, such as a conference room and secretarial support, incidental to an attorney's services rendered solely for the purpose of ensuring compliance with the Act or public financing provisions would not be subject to limit under 2 U.S.C. 441a(b). That is, they would not be considered expenditures as defined in the Act but, rather, would be part of the legal and accounting exemption found in 2 U.S.C. 431(8) and (9). Such amounts although not "expenditures" would nonetheless be reportable. Similarly, in this situation the use of firm resources, such as computer equipment, necessary to enable a corporate employee to provide compliance accounting services under the exemption set forth in 11 CFR 114.1(a)(2)(vii) would be encompassed within that exemption.

From your letter, it appears that your proposal is to have the Company provide accounting services to you as a candidate to ensure your committee's compliance with the Act in that the services would result in computer-produced schedules for your campaign reports required to be filed under the Act. The Commission thus concludes that such services rendered by Company personnel come within the exclusion in 11 CFR 114.1(a)(2)(vii) as long as the services are rendered solely to ensure compliance with the Act by your committee and as long as no additional personnel are hired to either render the services themselves or to enable personnel already employed by the Company to render the services.

The Commission notes that although the cost incurred by the Company to render these services would not be considered a contribution, that cost must be reported in accordance with Part 104 of the Commission's regulations. See also 2 U.S.C. 431(8)(B)(ix), 431(9)(B)(vii).

This response constitutes an advisory opinion concerning 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 yours,

(signed)

John Warren McGarry  
Chairman for the  
Federal Election Commission