



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 26, 1987

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1987-14

James S. Blewett
Senior Vice President
The First National Bank of Shreveport
400 Texas Street
Post Office Box 21116
Shreveport, Louisiana 71154-0001

Dear Mr. Blewett:

This responds to your letter of May 8, 1987, requesting an advisory opinion on behalf of the First National Bank of Shreveport ("the Bank") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the Bank's sponsorship of a political action committee to be used solely for the purpose of financing political activity in connection with state and local elections.

You state that the Bank is a national banking association organized under the National Banking Act. The Bank is contemplating forming and sponsoring a political action committee which will be prohibited by its articles of association from supporting candidates for Federal office. The political action committee will be formed solely for the purpose of financing political activity in connection with state and local elections. The Bank will pay the cost of establishing, administering and soliciting contributions to the committee; it will make no direct contribution in connection with any election to any office whether local, state, or Federal. You ask if such a committee is subject to the organization, registration, recordkeeping, contribution limitations, and solicitation and contribution restrictions of the Act.

Under the Act and regulations, a national bank is prohibited from making a contribution or expenditure in connection with any election to any political office, including local, state or Federal offices. 2 U.S.C. 441b(a), 11 CFR 111.2(a). The Act also includes an exception to this prohibition which allows payment of the costs of establishment, administration, and solicitation of contributions to a separate segregated fund to be used for political purposes. 2 U.S.C.

441b(b)(2)(C). Commission regulations explain that national banks may engage in activities specifically permitted under Part 114 to the extent the activity is not prohibited by other law.* 11 CFR 114.2(a)(1). Therefore, a national bank is permitted to establish and sponsor a separate segregated fund as set forth in 2 U.S.C. 441b(b)(2)(C) and 11 CFR 114.5. See Advisory Opinion 1979-42 and the Commission's response to Advisory Opinion Request 1976-109.

Since the Bank's fund will not be making "contributions" or "expenditures" to influence any election for Federal office, it would not be a "political committee" and thus not subject to the organization, registration, reporting, and recordkeeping provisions or to the contribution limits of the Act. 2 U.S.C. 431(4), 431(8), 431(9), 441a. Commission regulations specifically exempt a separate segregated fund from registering with the Commission if it is established solely for the purpose of financing political activity in state and local elections. See 11 CFR 102.1(c) and 2 U.S.C. 433. Because the proposed committee would not be a "political committee," it would also be exempt from the recordkeeping, reporting, and contribution limit provisions of 2 U.S.C. 432, 434 and 441a. In addition, the requirements of 2 U.S.C. 432(e)(5) as to the name of a separate segregated fund would not apply in this case since the Bank's committee will not be a "political committee" under Commission regulations. 11 CFR 102.14(c).

Because this is the separate segregated fund of a national bank, it is subject to the solicitable class restrictions, the voluntary contribution requirements, and the solicitation notice provisions contained in 2 U.S.C. 441b(b)(3) and (b)(4) even though it is only financing state and local activity. See 11 CFR 114.5(a), (b), and (g); see also 11 CFR 114.2(a)(2).

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,

(signed)

Scott E. Thomas
Chairman for the Federal Election Commission

Enclosures (AO 1979-42 and Re: AOR 1976-109)

*/ The Comptroller of the Currency, in Banking Circular #137 (BC-137), dated February 19, 1980, has indicated that national banks are permitted to form separate segregated funds for political purposes under 2 U.S.C. 441b(b)(2)(C).