



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 5, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1983-42

Mark Steven Soroka
Woolworth Building
233 Broadway
New York, NY 10279

Dear Mr. Soroka:

This responds to your letter of November 25, 1983, requesting an advisory opinion on behalf of Allied Building Inspectors, Local 211-I.U.O.E. PAC concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a proposed transfer of funds from the PAC's Federal fund to its State fund.

Your letter states that in 1982, Allied Building Inspectors, Local 211-I.U.O.E. Political Action Committee ("the PAC") was established. At that time, two "separate segregated funds were set up," one solely for Federal election activity and the second for State activity. The PAC registered as a political committee with the Commission on October 19, 1982.

You state that individuals contributed amounts of less than \$99 to the PAC, and these contributions were not earmarked for any particular candidate, or for candidates seeking Federal or State office. Subsequently, the PAC determined the allocation of these campaign contributions to the Federal and State funds based on what the anticipated needs of each would be.¹ You state further that the amount of monies currently maintained in the Federal fund exceeds the need for Federal election activity; similarly, the portion of monies initially allocated to the State fund is inadequate for its needs. Thus, you ask specifically whether the Federal separate segregated fund

¹ The Commission notes that solicitations for the Federal fund must be made in accordance with 102.5(a)(2) which requires, in part, that contributors be informed that their contributions will be used to support Federal candidates and that such contributions are subject to the contribution limits of the Act.

may transfer funds to the State fund and if so, whether there are any limitations on these transfers or any reporting requirements which must be followed.

The Commission concludes, based on the description provided in your letter, that such a transfer of funds from the Federal fund to the State fund is permissible under the Act and Commission regulations.² Commission regulations state that transfers of funds may be made without limit between affiliated committees, whether or not they are political committees under 11 CFR 100.5. 11 CFR 102.6(a); also see 11 CFR 100.5(g)(2). Accordingly, the Federal fund would be permitted to make unlimited transfers to the State fund. In addition, the limits of 2 U.S.C. 441a(a) do not apply to contributions (or transfers) made to entities other than to political committees or Federal candidates.

With regard to reporting obligations, the PAC must itemize the amount of each transfer made by the Federal fund to the State fund. See 2 U.S.C. 434(b)(5)(C) and 11 CFR 104.3(b)(1)(ii).

The Commission expresses no opinion regarding possible application of any State law to the funds transferred for State election purposes, except to note that any applicable State law purporting to limit or prohibit this transfer would not be preempted or superseded. 2 U.S.C. 453, 11 CFR 108.7; also, see Advisory Opinion 1981-18, copy enclosed.

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)

Lee Ann Elliott
Chairman for the Federal Election Commission

Enclosure (AO 1981-18)

² The Commission notes that in the converse case -- that is, a transfer of monies from the State fund to the Federal fund -- the transfer must be made in accordance with 11 CFR 102.6(a) which requires, in part, that the transfer "be made only from funds which are permissible under the Act." 11 CFR 102.6(a)(1)(iv).