



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

August 22, 1984

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1984-31

Mr. James B. Cardle  
Assistant Vice President and Economist  
First Bank & Trust Company  
Box 200  
Booker, Texas 79005

Dear Mr. Cardle:

This responds to your letter of April 9, 1984, as supplemented by your letters of June 25 and August 10, 1984, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended, ("the Act"), to a proposed transfer to a separate segregated fund established by the First Bank & Trust Company.

You state that in late March 1984 you filed a Statement of Organization with the Commission for a separate segregated fund ("the Federal PAC") that proposes to make contributions in Federal elections. You also state that approximately two years ago your bank established a political action committee for state election purposes ("the State PAC"), and you propose to continue the operation of this committee for State election activity. Your request indicates that the State PAC solicited donations during the bank's Board of Directors meeting in February 1984, as well as during bank officer meetings held in early March 1984. You state that in all cases, donations to the State PAC were made on a voluntary basis. Furthermore, you indicate that contributions to the State PAC were made by (1) bank directors (who in all cases are also stockholders) and (2) officers of the bank (some of whom are also stockholders). You note that bank officers include individuals in both the executive and administrative areas of the bank. Your letter of August 10 states that the State PAC proposes to transfer \$2,500 to \$3,000 to the Federal PAC. This amount consists of 48 contributions including 18 contributions of \$150 each from Board members.

You ask whether such a transfer may be made from the bank's State PAC to its Federal PAC. The Commission concludes that the proposed transfer may be made if the conditions noted below are satisfied.

The Commission notes initially that if the State PAC makes the proposed transfer of funds to the Federal PAC, the State PAC would become a political committee under 2 U.S.C. 431(4) and 11 CFR 100.5 and would be subject to the registration and reporting requirements for political committees. See Advisory Opinions 1982-46 and 1983-3, copies enclosed. On the other hand in this case, because your corporation has already established a Federal PAC, if the State PAC acts as a collecting agent under Commission regulations at 11 CFR 102.6(b) and (c), such a transfer may be made through the state account without the State Committee becoming a political committee with a reporting obligation to the Commission. In order to make such a transfer, the State PAC would be required to obtain written authorizations from the contributors involved stating their intent to make a contribution to the separate segregated fund under the regulations at 102.6(b) and (c) and 114.5. Any contributors who do not so state must either be given a refund, or their contributions must remain with the State PAC. Each contribution included in the amount transferred must be reported by the Federal PAC as a contribution from the original contributor to the extent required by Commission regulations. 11 CFR 102.6(c)(7), 104 .12.

The Federal PAC is subject to all requirements of the Act and Commission regulations <sup>1</sup> including the contribution solicitation provisions set forth at 11 CFR 102.5 and 114.5. All contributions it receives are subject to the prohibitions and limits of the Act. In this case the Commission assumes that the contributions are from individuals <sup>2</sup> and comply with the limitations of 2 U.S.C. 441a(a)(1).<sup>3</sup> However, inasmuch as the initial solicitation was for the State PAC, the contributors were not informed that their contributions should be designated for the Federal PAC, that they would be used in Federal elections, and that they were subject to the limitations of the Act. 11 CFR 102.5(a)(2). Accordingly, in order for the State PAC to be viewed as the collecting agent, the donors must state their intention, in writing, to contribute to the Federal PAC. Future contribution solicitations for the Federal PAC must meet all of the requirements of 11 CFR 114.5 and 102.5.

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<sup>1</sup> If the State PAC is used exclusively for state and local political activity, it would not be required to register and file reports with the Commission. It would, however, be subject to the prohibition on contributions by national banks and Federally chartered corporations, 2 U.S.C. 441b, and the prohibition on contributions from foreign nationals, 2 U.S.C. 441e.

<sup>2</sup> The Commission notes that on the basis of the information you have provided, all of the persons solicited by the State PAC were apparently either stockholders or executive or administrative personnel of the bank and were therefore permissible solicitees. See 2 U.S.C. 441b(b)(4)(A), 441b(b)(7).

<sup>3</sup> The \$25,000 annual limit is also applicable to the contributions in question, and their contributions are counted against their 1984 limit. 2 U.S.C. 441a(a)(3), 11 CFR 110.5.

AO 1984-31

Page 3

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)

Thomas E. Harris  
Vice Chairman for the  
Federal Election Commission

Enclosures (AO's 1983-3, 1982-46)