



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 1, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-102

Mr. R. H. Rowles
Treasurer for the Fru-Con Corporation Political Action Committee
12 South Hanley Road
St. Louis, Missouri 63105

Dear Mr. Rowles:

This responds to your letters of July 18 and August 14, 1980 requesting an advisory opinion on behalf of the Fru-Con Corporation Political Action Committee ("the Committee") concerning application of the Federal Election Campaign Act of 1971, as amended, ("the Act"), to solicitations by the Committee for contributions.

Your July 18 letter states that the Committee filed a Statement of Organization with the Commission on June 25, 1980, and is presently preparing to solicit contributions. Your letter of August 14 explains that solicitations would be directed to the children and parents of all executive and administrative personnel who either live in the same household with such personnel or in the immediate geographic area. You ask whether such a solicitation is permissible under the Act.

A corporation, or a separate segregated fund of such corporation, is permitted to solicit the executive and administrative personnel of the corporation and their "families" for contributions to such fund. 2 U.S.C. 441b(b)(4)(A) and 11 CFR 114(g)(1). While the term "immediate families" is defined for purposes of Title 26 of the United States Code, there is no definition of the term "family" in Title 2 of the Code for purposes of 2 U.S.C. 441b.*

Your letter of July 18 suggests that the term "family" as it is used in Title 2 should be interpreted by the Commission more broadly than the term "immediate family" found at

* The term "immediate family" is defined at 26 U.S.C. 9035(b) to mean "a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouse of such persons." An identical definition is found at 26 U.S.C. 9004(e).

26 U.S.C. 9035(b). The legislative history of the Act indicates, however, that for purposes of Title 2, Congress intended that a more limited meaning should apply. This is clear from the following colloquy which occurred during discussion of the Hansen Amendment to the Federal Election Campaign Act of 1971:

Mr. Ashbrook: The gentleman said a few minutes ago that he wanted to make his amendment perfectly clear. It is not being directed just to unions and members of unions but also their families? How far does this go? Do you go to cousins - first, second, and third? What would be the interpretation of "families"?

Mr. Hansen: I would interpret it as immediate family.

Mr. Ashbrook: In other words, the mother, father, sons, and daughters? That would be as far as you would go and not cousins and nephews?

Mr. Hansen: No, I would not include anything other than immediate family.

Mr. Hays: Will the gentleman yield?

Mr. Ashbrook: I yield to my colleague from Ohio.

Mr. Hays: I think in applying this you would have to use the rule of common sense. I suppose if they went up to the door that anyone who lived in that house would be included.

Mr. Ashbrook: That is the point I was going to make. Consider this example. I am a union get-out-the-vote organizer. I come to the door of your home. There are people in the home such as the union member and his family but also people who are not members of the family.

Are you saying it would be legal to get out the vote for families of the union member but under the rule of reasonableness I would be allowed as a part of the get-out-the-vote campaign to get out other people in the same household who would not be members of the family? Would it be legal, illegal or would the rule of reason cover it all?

Mr. Hansen: I can only give you my own opinion which is perhaps of no greater value than yours, or the opinion of the gentleman from Ohio. However, I would still limit it to immediate families, those who are in the home and are a part of what may be determined to be a family unit.

117 Cong. Rec. 43387-43388 (Emphasis added).

For purposes of 2 U.S.C. 441b therefore, the Commission views the term "family" to mean the mother, father, sons, and daughters who live in the same household. Accordingly, the Commission concludes that it would be permissible under the Act for the Committee to solicit

the children and parents of all Fru-Con Corporation executive and administrative personnel who live in the same household with such personnel, but the Committee would be prohibited from soliciting those members of the immediate family who do not reside in such household since those persons would not be members of the executive's "family" as that term was understood during the course of Congressional debate on the persons considered to be within the family of a union member.

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 W. McGarry
Vice Chairman for the
Federal Election Commission