



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 5, 1984

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1984-45

Loren D. McManus, Associate Counsel  
R.J. Reynolds Industries  
Winston-Salem, N.C. 27102

Dear Ms. McManus:

This responds to your letter of August 30, 1984, in which you request an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to KFC Corporation's proposed payment of credit card service charges incurred by the corporation's political action committee when contributions are received by credit card.

Your letter states that KFC Corporation, an affiliate of R.J. Reynolds Industries, is forming a political action committee and wishes to permit executive and administrative personnel to make contributions to this committee by credit card. You indicate that the issuers of the credit cards will impose a monthly service charge of between 5 and 6 per cent of the total donations received each month, and that the card issuers will debit the political action committee's account to recover this charge. You ask whether the corporation may pay this service charge as an expense of establishing, administering, or soliciting contributions to the corporation's separate segregated fund (political action committee).

As you know, the Act prohibits corporations from making any contribution or expenditure in connection with a Federal election. 2 U.S.C. 441b(a). However, the Act creates an exception to this prohibition in that a corporation may sponsor a separate segregated fund for political purposes. 2 U.S.C. 441b(b)(2)(C). Payments by a corporation for the establishment and administration of the separate segregated fund, and for the solicitation of contributions to that fund, are not "contributions" for purposes of the Act, and are therefore permissible. 2 U.S.C. 441b(b)(2)(C). Commission regulations specify that "establishment, administration, and solicitation costs" include the cost of "fundraising and other expenses incurred in setting up and running a separate segregated fund." 11 CFR 114.1(b).

As a preliminary matter, the Commission has allowed the making of otherwise lawful contributions by credit card. Advisory Opinion 1978-68. Your request, of course, is more

narrow: whether KFC Corporation may pay the service charges imposed by the card issuers. Several past advisory opinions have considered the exemption for solicitation and fundraising. Where a trade association political action committee held a fundraising event featuring well-known entertainers, the cost of soliciting contributions was held to be separate from other costs of the event (door prizes and entertainment), and the sponsoring organization was permitted to pay the cost of solicitation. Advisory Opinion 1979-72. The Commission has also held that where a corporation sought to introduce its employees to its political action committee, the corporation could lawfully schedule a breakfast or luncheon meeting during business hours, transport the employees to the meeting, and pay the costs of the transportation and the meals. Advisory Opinion 1980-50. Elsewhere, the Commission has also held that it is permissible for the connected corporation to pay the cost of printing checks to be used by a political action committee as an expense of administering the fund. Advisory Opinion 1983-22.

The described service charges are as much a means of soliciting or facilitating the making of contributions to the committee as were the expenses addressed in the foregoing opinions. Thus, the Commission concludes that KFC Corporation may pay the credit card service charges mentioned in your request as an expense of solicitation which is specifically permitted by Commission regulations.

The Commission further advises, however, that if KFC Corporation plans to reimburse its political action committee for the service charges, its right to do so is qualified. Commission regulations provide that if a separate segregated fund pays a solicitation or administrative expense from its own account which the connected organization (here, KFC Corporation) could have paid, the connected organization must reimburse the fund no later than 30 days after the expense was paid. 11 CFR 114.5(b)(3). For guidance with respect to reporting in this situation, see Advisory Opinion 1983-22 and the regulations cited therein.

This response constitutes an advisory opinion concerning application of the Act, and regulations prescribed by the Commission, to the specified transaction or activity as set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Lee Ann Elliott  
Chairman for the  
Federal Election Commission

Enclosures (AOs 1978-68, 1979-72, 1980-50, and 1983-22)