



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 8, 1977

AO 1977-31

Mr. Leo Berman
1711 Astro Court
Arlington, Texas 76012

Dear Mr. Berman:

This responds to your letter of June 30, 1977, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act").

Your request poses the following factual situation. You are employed by the Western Company of North America as Special Assistant to the Chairman of the Board for Public Affairs. The Chairman has asked you to record a number of 60-second radio spots to be aired in the Dallas/Fort Worth area. These "public service messages," which would present opinions on, for example, the effect of government costs, would state your name twice and would be recorded by you. Near the end of the messages you would state, "This is Leo Berman bringing you this public service message from the Western Company of North America." The Western Company would pay the cost of producing and airing the radio spots. You have registered a political committee with the Commission for 1977-78 and will publicly announce your candidacy for the U.S. House of Representatives in January 1978. You inquire whether this transaction would be construed as a corporate contribution.

It is the opinion of the Commission that the transaction you describe would be a corporate contribution in-kind from Western Company to you. Such contributions are prohibited by 2 U.S.C. 441b which provides, in relevant part:

(a) It is unlawful for . . . any corporation . . . to make a contribution or expenditure in connection with any [Federal] election . . . or for any - 2 - candidate . . . knowingly to accept or receive any contribution prohibited by this section. . . .

(b)

(2) For purposes of this section . . . the term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . to any candidate . . . in connection with any (Federal] election. . . .

Having authorized a political committee to receive contributions and make expenditures for you, you are a "candidate" within the meaning of the Act. 2 U.S.C. 431(b)(2). Recitation of your name twice in the body of these public service radio messages would provide value to you as a candidate. Payment by Western Company for the cost of those messages would therefore be a "gift of anything of value . . . to [a] candidate" in violation of 141b.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)
Thomas E. Harris
Chairman for the
Federal Election Commission