



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 9, 1978

AO 1978-27

Thomas W. Power, Esq.
1666 K Street, N.W.
Suite 611
Washington, D.C. 20006

Dear Mr. Power:

This refers to your request for an advisory opinion on behalf of Morrison's Political Action Committee ("MPAC") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to MPAC's proposed solicitation of political contributions from employees of Morrison Incorporated and various wholly-owned subsidiary corporations.

Specifically, you ask whether unit managers of Morrison Incorporated cafeterias, food service operations, "Admiral Benbow" motels, food-supplying and equipment-support operations may be regarded as executive personnel of Morrison as defined in 2 U.S.C. 441b(b)(7) and Commission regulations at 11 CFR 114.1(c). By letter dated May 8, 1978, you explained that:

"Morrison Incorporated operates in numerous states on the basis of the following corporate structure. In all except three states wherein Morrison conducts its business, two corporations conduct business on behalf of Morrison. One corporation operates all Morrison public cafeterias and "Admiral Benbow" motels, while the other corporation operates all institutional food service facilities in the state. In three states, a third corporate entity exists which is responsible for the operation of support facilities for all food service, cafeteria, and motel operations. The unit managers referenced in our request of April 18, 1978 are employees of these corporations. Without exception, all corporations referenced above are wholly-owned subsidiaries of Morrison Incorporated. On the basis of these facts all unit managers stand in an employer-employee relationship with the parent, Morrison Incorporated, as employees of its wholly owned subsidiaries within the meaning of 11 CFR Part 114.1(c), and may be the subject of solicitation as authorized of employees of subsidiary corporations by 11 CFR Part 114.5 (g)(1).

Morrison Incorporated does not currently intend to solicit contributions from "Admiral Benbow" franchisees or their employees and, therefore, our April 17, 1978 request should not be construed to raise the question as to whether "Admiral Benbow" franchised operations are "affiliates" within the meaning of Section 321(b) of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 441b), and 11 CFR Part 114.5(g)(1)."

In support of your view that unit managers of Morrison Incorporated, and the described subsidiary corporations, may be characterized as executive and administrative personnel of Morrison, you describe the authority and function of these employees as follows:

1. Each unit manager is compensated on a salaried basis in excess of \$155 per week exclusive of board, lodging, and other facilities, rather than on an hourly basis and receives a bonus based on contributions by his/her unit to overall company profits.
2. Unit managers are in sole charge of establishments and exercise complete control over hiring, firing, discipline, and promotion of employees in their units.
3. All unit managers customarily and regularly direct and supervise the work of substantial numbers of employees in their respective units.
4. No unit manager performs manual tasks unrelated to his/her executive function for a period equal to or in excess of 40% of his/her weekly hours. Moreover, the decision to perform any manual tasks whatsoever is within the sole discretion of the unit manager.
5. All unit managers are trained at the company's centralized training facility. A portion of their responsibilities is to implement policies and directives emanating from Morrison, Inc. headquarters with regard to such matters as purchasing, payroll, personnel, bookkeeping, menus, and pricing with only generalized supervision. Since corporate policy decisions on these issues change from time to time and since many matters of an emergency or otherwise unusual nature occur in a restaurant, foodservice, or motel operation, the manager's ability to apply general corporate policy to specific factual situations requires special intellectual abilities and interpersonal skills.
6. Each particular unit has a continuing status and function, and every unit manager has as his/her primary duty the sole supervision of the specific unit.
7. All unit managers exercise discretionary authority each day in their operations.

8. Unit managers, as opposed to hourly paid employees, are promoted to the higher level supervisory positions of the foregoing entities.

Based on the foregoing description of Morrison's unit managers, the Commission concludes that these employees are executive and administrative personnel for purposes of the Act and Commission regulations. Accordingly, they may be solicited for contributions to MPAC subject to the requirements of the Act. See 2 U.S.C. 441b(b)(3) and Part 114 of the Commission's regulations, in particular 114.1(i) and 114.5(a).

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)

Joan D. Aikens
Chairman for the
Federal Election Commission