



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 23, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-106

Mr. James F. Schoener
Jenkins, Nystrom & Sterlacci, P.C.
2033 M Street, N.W.
Washington, D.C. 20036

Dear Mr. Schoener:

This responds to your letter dated August 20, 1980, supplemented by your letters containing additional information dated August 28, and October 30, 1980, requesting an advisory opinion on behalf of your client, "FaithAmerica", concerning the status of FaithAmerica under the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations.

You state that your client is "an unincorporated association of Christian laymen who have adopted the name 'FaithAmerica'...." You state that FaithAmerica has asked for a ruling on a proposed publication that lists the position of each of the presidential candidates, pro or con, on issues of concern to Christian clergy and laymen. Subsequent to receiving this advisory opinion request a copy of the actual summary was submitted to the Commission on November 24, 1980. The summary is printed on two sides. Each side names three presidential candidates in the order: Reagan, Carter, Anderson. The face side states that the summary is: "based on their public statements, support or opposition to specific legislation, record of appointments to cabinet and staff positions and official acts." The face side also states that the "Report" is prepared by:

FaithAmerica Research & Educational Association as a public service for the Christian clergy and layman, independent from and not connected with any candidate or political organization.

The reverse side is captioned at the left margin as "KEY MORAL AND RELIGIOUS LIBERTY ISSUES." On the right are listed the names Reagan, Carter, Anderson. Below the left caption are topical statements of the issues selected, and on the right side in three columns the "YES" or "NO" position of each of the three candidates is presented:

| | Reagan | Carter | Anderson |
|--|--------|--------|----------|
| VOLUNTARY PRAYER IN PUBLIC SCHOOL | YES | NO | NO |
| RIGHT TO LIFE | YES | NO | NO |
| FAMILY PROTECTION ACT | YES | NO | NO |
| SUPPORT OF CHRISTIAN EDUCATION | YES | NO | NO |
| NEW TAX DEDUCTIONS FOR CHURCH AND CHARITABLE GIVING | YES | NO | NO |
| PARENTAL APPROVAL OF SEX EDUCATION FOR ELEMENTARY STUDENTS | YES | NO | NO |
| FAIR REPRESENTATION OF CHRISTIANS IN APPOINTED GOVERNMENT POSITIONS | YES | NO | NO |
| PROMOTION OF HOMOSEXUALITY | NO | YES | YES |
| FEDERAL CONTROL OF ALL CHURCH YOUTH CAMPS AND CONFERENCE GROUNDS | NO | YES | YES |
| SUPPORT FOR THE RELIGION OF SECULAR HUMANISM | NO | YES | YES |
| FORCED SCHOOL BUSING | NO | YES | YES |
| CONSTITUTIONAL AMENDMENT (E.R.A.) TO ELIMINATE ALL LEGAL DIFFERENCES BETWEEN MEN AND WOMEN | NO | YES | YES |

The publication was to have been distributed by volunteers in the "Christian community" to church members and the public through religious organizations. You have stated that no formal activities are required for membership in FaithAmerica; that no other similar publications have been published by FaithAmerica since its establishment and that FaithAmerica is not "organized" but is merely a "loose association." Based on this factual situation, you state your belief that "this committee is not subject to the requirements of registration or reporting" under the Act and you ask for an advisory opinion stating the Commission's view.

The term "expenditure" is defined by the Act as "any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office...." 2 U.S.C. 431(9)(A). The term "political committee" is defined to mean in part "any committee, club, association, or other group of

persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year...." 2 U.S.C. 431(4)(A).

The Commission concludes that payments by FaithAmerica for production and dissemination of the described summary of the positions of presidential candidates on certain issues are "expenditures" under the Act. Although the publication is described as a summary of presidential candidates' positions on "major issues of concern to the Christian community," the information actually presented and the manner in which it is presented are designed to influence the readers' choice in the 1980 presidential election, rather than simply to promote discussion of issues. The candidates' positions are based on FaithAmerica's own assessment of the candidates' "public statements, support or opposition to specific legislation, records of appointments to cabinet and staff positions...."

You have stated that FaithAmerica would disseminate this publication in close proximity to the 1980 presidential election. You also indicate that FaithAmerica has not engaged in any other activity; it has neither plans for future activity nor any organizational structure to sponsor other activities unrelated to Federal candidates and/or Federal elections. Thus, the production of this summary identifying presidential candidates and distributed before the 1980 general election, constitutes the only activity of FaithAmerica. In these circumstances the Commission concludes that the activity is principally designed to influence the outcome of a Federal election. Thus, the costs of publishing and/or disseminating the summary would be expenditures for purposes of the Act. If such expenditures exceed \$1,000 in a calendar year, FaithAmerica would become a "political committee" under 2 U.S.C. 431 and would accordingly, be subject to the registration and reporting requirements of the Act. 2 U.S.C. 433 and 434.

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