FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 14, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-50

Albert G. Norman, Jr.
F.T. Davis, Jr.
Hansell, Post, Brandon & Dorsey
3300 First National Bank Tower
Atlanta, Georgia 30383

Dear Messrs. Norman and Davis:

This responds to your letter of October 15, 1981, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the status of a partnership as a political committee.

Hansell, Post, Brandon & Dorsey ("the Partnership") is a law firm organized as a partnership under the laws of the State of Georgia. The Partnership wishes to make available to its members a voluntary clearinghouse and bookkeeping service for the purpose of encouraging members of the Partnership to make voluntary contributions to candidates for Federal office, and to establish a system to facilitate such contributions.

Your letter states that several members of the Partnership propose to encourage all members to designate an amount which they intend to contribute to candidates for Federal office during the course of the succeeding twelve month period. Guidelines concerning recommended amounts to be so designated will be provided. However, no member will be required to designate any amount or contribute to any particular candidate. The Partnership will provide bookkeeping services to record the amounts so designated and those amounts ultimately expended in accordance with the political contribution plan described below. You indicate that the anticipated expenses associated with the Partnership's political contribution plan will be negligible and in no event will they exceed $1,000 in a calendar year. You further state that no special account will be created and no funds will be collected by the Partnership from any of its members for any purpose associated with this endeavor. The commission understands from the description that, in essence, the "designated" amounts you describe are pledges, and the "bookkeeping services" seem to entail a record system to determine the member's actual share of partnership contributions in relation to his or her pledge.

You explain that a group of Partnership members will serve as a clearinghouse for requests for contributions that are received in connection with a campaign for Federal office. This group will receive, review, and catalogue all such solicitations. The group will provide such information to members of the Partnership and will ascertain the desire of the respective members to respond to the particular contribution solicitations. A record of those members who are interested in making such voluntary contributions will be maintained, including the amount designated by each, and the candidates to whom they wish to contribute. When a decision to contribute is made, a Partnership check will be sent to the appropriate campaign committee or candidate with a cover letter itemizing the individual member contributors and the respective contributions which the Partnership check represents. When this check is issued, the account of each member of the firm participating in that contribution will be charged for the appropriate amount. You ask whether the Partnership, by implementing the described political contribution plan, would be required by the Act or Commission regulations to register and report as a political committee.

Under the Act, no person (including a partnership) may make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000. 2 U.S.C. 441a(a)(1)(A). While a partnership contribution is subject to contribution limitations (because the partnership is a "person" under 431(11)), Commission regulations require that such a contribution be attributed to each partner in a direct proportion to his or her share of the partnership profits, or be attributed to individual partners by agreement of such partners. 11 CFR 110.1(e).

Partnerships are generally recognized as a type of voluntary, unincorporated business organization pursuant to state law, and their legal character is determined with reference to state law. Nearly all state partnership statutes follow the Uniform Partnership Act ("UPA") [*], which has largely utilized the "entity theory" of a partnership. This theory views the partnership as having an identity separate from that of all the partners. The Act by including a partnership in the definition of a "person", takes a similar approach to partnerships as that taken by nearly all states.

Where the articles of partnership (or partnership agreement) set forth the type of activity to be engaged in by the partners, such as the practice of law, the Commission has never characterized any partnership as a political committee. Advisory Opinions 1975-17, and 1975-104 (copies enclosed). As both the Act and Commission regulations indicate, a partnership as a person may make a contribution, if not unlawful under the Act. Such contributions are treated as both a contribution from the partnership as a person and from the individuals who make up the partnership. 11 CFR 110.1(e), also see Advisory Opinion 1980-132 (copy enclosed). The fact that the partnership may make separate contributions of up to $1,000 each to several candidates for Federal office (which total over $1,000 in a calendar year) is not viewed as a basis for converting the partnership into a political committee for purposes of the Act.

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[*] Forty-eight states plus the District of Columbia, The Virgin Islands and Guam have all adopted some version of the UPA. Only Louisiana and Georgia have not.

In this opinion the Partnership proposes a plan to obtain the participation of members in Partnership contributions. The issue raised is whether the plan would be viewed as a political committee sponsored by the Partnership. The Commission concludes that the described plan would not become a political committee. The plan does not require members as a condition of participation to designate any amount on an annual basis, or to contribute to any particular candidate or class of candidates. Moreover, because the contribution to a candidate is made by the Partnership (and attributed to individual members pursuant to 110.1(e) of Commission regulations), the described plan does not involve the collection of many separate contributions from individual members of the Partnership for the same candidate. Rather, the plan as described here contemplates distribution of contribution solicitations received by the Partnership from candidates for Federal office. The distribution would then be followed up by inquiries to Partnership members who had designated or pledged their intent to participate in Partnership contributions. These partners would be asked whether they wished to respond to a particular contribution solicitation and if so, thereby consent to a charge to their partnership account for some agreed upon portion of the Partnership's contribution.

This method of attributing a partnership contribution is one of the alternative requirements under Commission regulations. 11 CFR 110.1(e). Since incidental Partnership expenditures to implement the described plan are made as part of the process of obtaining the consent of those partners who wish to share in the Partnership contribution, the Commission would not view the described plan as a "political committee" under the Act. See 2 U.S.C. 431(4).

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 Warren McGarry
Chairman for the
Federal Election Commission

Enclosures (AO 1975-17, 1975-104 and 1980-132)