



FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

CONCURRING OPINION
TO ADVISORY OPINION 1991-29

Commissioner Joan D. Aikens
Commissioner Lee Ann Elliott

We voted with the majority in AO 1991-29 because we agreed with the conclusion that receipts of a separate segregated fund should be reported as contributions to the fund at the time of their donation especially when they are solicited to be used for Federal political activity.

The program devised by Sundstrand for its Good Government Programs, in an effort to promote individual involvement in the political process, did not consider payroll deduction donations to be contributions to the PAC until they were designated by the contributor to a candidate or committee. In the response to their request, the Commission equated Sundstrand's program to the response in AO 1981-21, Hallmark's "deferred earmarking" plan which required reporting of contributions to the PAC when payroll deduction occurred and earmarked contributions to the candidate and committee when the contributor so designated. The contribution would be reported as a contribution from both the PAC and the individual contributor - a practice Sundstrand's PAC was already following.

Our only deviation from the Commission's opinion is that we believe that Sundstrand's separate segregated fund should have the flexibility to easily adapt its program to conform to FECA and Regulations in other ways. The Commission's opinion should not preclude the Fund from encouraging employee participation in selecting candidates to which the PAC would contribute. 11 CFR 114.5(c)(1)(iii). Absent true earmarking, the practice of allowing PAC contributors to choose PAC recipients represents an administrative policy for deciding which candidates to support with PAC funds, and does not inherently result in "earmarked contributions" from those employees pursuant to the Act and Commission regulations.

December 3, 1991

Joan D. Aikens
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Lee Ann Elliott
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