

Writer's Direct Number: 312/329-8375

July 25, 1995

Ms. Marjorie Emmons
Commission Secretary
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: Comments on Draft Advisory Opinion 1995-17

Dear Ms. Emmons:

This letter provides the comments of the NATIONAL ASSOCIATION OF REALTORS® in connection with Draft Advisory Opinion 1995-17.

In general, we find the Draft Opinion to correctly state the facts regarding the membership structure of the NATIONAL ASSOCIATION OF REALTORS® and its constituent local and State Associations and Boards of REALTORS®, and to reach clear and appropriate conclusions regarding the Commission's membership regulations applied to that structure. In that connection, however, we offer the following two comments for the staff and the Commission in its consideration of the Draft Opinion:

1. As noted in footnote (2), the Draft Opinion "does not address the membership status of REALTOR-ASSOCIATE® members of local Boards that have not given them voting rights." This footnote correctly reflects the principal inquiry advanced by this AO Request. Nevertheless, because the Draft Opinion recognizes and places considerable emphasis on the highly integrated and interdependent nature of the National Association and the State and local Boards which are members of NAR, we invite the Commission to address whether REALTOR-ASSOCIATE®s without voting rights should nevertheless be deemed members pursuant to 11 CFR 114.1(e)(3) because of their close and essential relationship with these entities. In that connection, we wish also to point out several other particular indicia of the "significant organizational attachment" that REALTOR-ASSOCIATE®s have to the Association:

(a) REALTOR-ASSOCIATE®s, like REALTOR® members, are obligated to comply with the Code of Ethics promulgated by the NATIONAL ASSOCIATION OF REALTORS® and enforced by local Boards of REALTORS®. They are further obligated to submit to adjudicative processes conducted by local Boards to determine if a

violation has occurred and, if so, what penalties (up to and including termination of membership) are to be applied.

(b) REALTOR-ASSOCIATE®s are licensed by the NATIONAL ASSOCIATION OF REALTORS® to use the collective membership mark "REALTOR-ASSOCIATE®", which is registered with the U.S. Patent and Trademark Office and owned by the NATIONAL ASSOCIATION OF REALTORS® (see NAR Bylaws Article V, Section 2 and REALTOR-ASSOCIATE® registration certificate, enclosed).

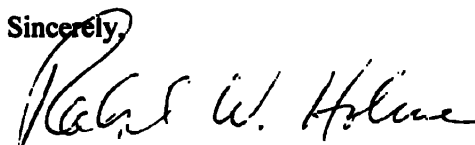
(c) In casting a vote on behalf of a Member Board for NAR Directors-at-Large, the President of the Board (or other accredited alternate) is entitled to cast a number of votes which is equal to the number of REALTORS® and REALTOR-ASSOCIATE®s of the Board which he or she represents. NAR Constitution Article IX. Thus, while REALTOR-ASSOCIATE®s do not vote directly for NAR Directors and may not have voting rights at the local Board level, their status as local Board members is a significant factor in the election of NAR Directors.

(d) REALTOR-ASSOCIATE®s are expressly eligible for election as NAR Directors-at-Large. NAR Constitution Article IV, Section 2.

2. Section II.B. of the Draft Opinion notes (page 18, lines 22-24 and page 19, lines 1-2) that the costs of "professional entertainment should also be added to the value of fundraising items when determining the one-third figure." Advisory Opinion 1988-27 holds that a PAC "may pay for the costs associated with sponsoring (a) fundraiser." As result, the quoted language in the Draft Opinion creates some uncertainty regarding the scope of the costs of such an event (other than those associated with prizes and the like being distributed by auction, raffle, or otherwise) which must be included in the "one-third amount," and those (such as renting a room, supplying food and paying for service personnel, as in AO 1988-27) which need not be included. Clarification on this point would be beneficial.

We appreciate this opportunity to submit these comments and invite you to contact the undersigned if you have any questions in this regard or would like further information.

Sincerely,



Ralph W. Holmen

RWH/jbh

cc: N. Bradley Litchfield, FEC General Associate Counsel ✓