

**STATE BOARD OF ELECTIONS**  
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May 8, 2003

Mr. John B. McMillan  
Manning Fulton & Skinner PA  
PO Box 20389  
Raleigh, NC 27619-0389

Via Hand Delivery

Re: North Carolina Association of Realtors (NCAR) and its Affiliated Political Committee; Request for Advisory Opinion Pursuant to N.C. Gen. Stat. § 163-278.23

Dear Mr. McMillan:

You have requested a written opinion pursuant to the final paragraph of N.C. Gen. Stat. § 163-278.23 on the compliance of the political committee of the North Carolina Association of Realtors (NCAR) with the requirements of Article 22A of Chapter 163 of the North Carolina General Statutes. The affiliated political committee of the NCAR is the North Carolina Realtors Political Action Committee ("RPAC").

NCAR has more than 25,000 members from throughout North Carolina. RPAC is a separate segregated fund affiliated with NCAR and organized by its officials and members as a political committee pursuant to N.C. Gen. Stat. § 163-278.19(b). Under this statute, members of a professional association may establish and contribute to such a political committee so long as the contributions are voluntary and the source of any contribution is not dues or other fees required as a condition of membership in the NCAR and do not derive from "any commercial transaction whatsoever." NCAR proposes that each NCAR affiliate that collects RPAC contributions create a "Transmittal Account," such as is used pursuant to the regulations of the Federal Election Commission. *See* 11 C.F.R. 102.6(c)(4)(ii)(A). The NCAR local affiliates will serve as the collecting agents for RPAC, and will establish transmittal accounts to which they will deposit checks from members of NCAR. NCAR affiliates will then be responsible for disbursing the checks according to the directions of the member of NCAR. The amounts directed to be contributed to RPAC must be deposited into its separate segregated fund directly from the transmittal accounts and should not be deposited into any NCAR operating accounts. All contributions to RPAC must be reported as such according to the requirements of Article 22A of Chapter 163 and are subject to the limitations of that Article.

The record-keeping, reporting and transmittal requirements will be significant for handling these contributions. The NCAR and RPAC must take great care to assure there is a "paper trail" for each contribution received by RPAC that shows the amount of the contribution, the source of the contribution, that the contribution came from funds of the NCAR member, and that the contribution was voluntarily given. Except for deposit and disbursement from the transmittal accounts, the monies originating as contributions to RPAC must be kept segregated from the dues and other funds of the NCAR. So long as the transmittal accounts will be maintained in this manner, with the necessary record keeping and reporting, it is my opinion that the transmittal accounts are an appropriate mechanism for the safeguarding and tracing of voluntary contributions to RPAC. Transmittal accounts meeting these requirements will not be deemed a political committee subject to the requirements of Article 22A of Chapter 163 of the General Statutes.

This opinion is based upon the facts as stated in your letter dated April 28, 2003. If those facts should change, you should evaluate whether this opinion is still applicable and binding. Finally, this opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

Sincerely,

Gary O. Bartlett  
Executive Director

cc: Julian Mann III, Codifier of Rules