

# ARKANSAS ETHICS COMMISSION

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## ADVISORY OPINION NO. 98-EC-017

Issued August 27, 1998

### ISSUE:

What are the limits on contributions to and from approved political action committees and small donor political action committees?

### BRIEF ANSWER:

There is no limit on the amount which a person may contribute to an approved PAC and a limit of \$1,000.00 per election on contributions from an approved PAC to any one candidate. Contributions to small donor PACs are limited to \$25.00 from any individual in any calendar year and contributions from small donor PACs are limited to \$1,000.00 per election to any one candidate.

### DISCUSSION:

Prior to the passage of Initiated Act 1 of 1996,<sup>1</sup> Arkansas law limited individuals and political action committees to contributions of \$1,000.00 per candidate for each election. Initiated Act 1 reduced the contribution limit to \$300.00 for the offices of governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general and commissioner of state lands and to \$100.00 for all other state public offices.

Initiated Act 1 also created a new type of political action committee ("PAC") known as a small donor PAC. Small donor PACs differed from approved PACs in that they were limited to accepting contributions of \$25.00 or less per calendar year from individuals but could contribute up to \$2,500.00 per election to any candidate.

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<sup>1</sup> The people of Arkansas approved this campaign reform measure by voter initiative.

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The foregoing provisions were challenged in federal district court<sup>2</sup> along with a pre-Initiated Act 1 provision limiting contributions to any particular approved PAC to \$200.00 annually. Following a bench trial, Judge Bill Wilson held that the contribution limits of \$300.00 for certain statewide offices and of \$100.00 for state judicial offices were violative of the First Amendments prohibition against limitations on the Freedom of Speech. The district court upheld the \$100.00 contribution limit as to all other offices, and the \$200.00 contribution limit to approved PACs and determined that the differential treatment for approved PACs and small donor PACs did not violate the Fourteenth Amendment's equal protection clause.

The district court's rulings were appealed to the Eighth Circuit Court of Appeals.<sup>3</sup> On appeal, the Eighth Circuit affirmed the district court's rulings which struck down the contribution limits of \$300.00 for certain statewide offices and of \$100.00 for state judicial offices. The Eighth Circuit reversed the rulings which upheld the \$100.00 contribution limits as to other offices and the \$200.00 contribution limit to PACs. The Eighth Circuit went on to find that allowing small donor PACs to contribute as much as \$2,500.00 per election to any candidate (in contrast to the \$1,000.00 limit applicable to approved PACs) did not pass constitutional muster.

The Eighth Circuit remanded the case to the district court for the entry of declaratory and injunctive relief consistent with its opinion. On August 24, 1998, Judge Bill Wilson entered his Judgment on Remand. The effect of said judgment on the limits on contributions to and from approved PACs and small donor PACs was to remove the \$200.00 limit on contributions to approved PACs and lower the limit on contributions from small donor PACs to candidates from \$2,500.00 to \$1,000.00. Accordingly, there is no limit on the amount which a person<sup>4</sup> may contribute to an approved PAC and a limit of \$1,000.00 per election on contributions from an approved PAC to any candidate for each election.

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<sup>2</sup> Ron Russell, Kent Ingram, William R. Austin, and Associated Industries of Arkansas Political Action Committee brought a lawsuit in the United States District Court for the Eastern District of Arkansas styled Russell, et al. v. Burris et al., Case No. LR-C-97-0089. A similar suit was also filed in the United States District Court for the Western District of Arkansas.

<sup>3</sup> The appeal was docketed as Case No. 97-3922 in the United States Court of Appeals for the Eighth Circuit and consolidated with an appeal brought from the Western District case.

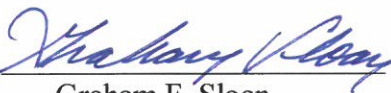
<sup>4</sup> The term "person" is defined in Ark. Code Ann. § 7-6-201 to mean:  
any individual, proprietorship, firm, partnership, joint venture, syndicate, labor union, business trust, company, corporation, association, committee, or any other organization or group of persons acting in concert...[and] organized political parties as defined in § 7-1-101(1).

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With respect to small donor PACs, contributions to such PACs are limited to \$25.00 from any individual<sup>5</sup> in any calendar year. The limit on contributions from small donor PACs to candidates is \$1,000.00 per election.

This advisory opinion is issued by the Arkansas Ethics Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

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By:   
Graham F. Sloan  
Staff Attorney

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<sup>5</sup> The Commission interprets the term “individual” to mean natural persons.