

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 2001-EC-006 Issued August 17, 2001

ISSUE:

How should a political action committee report nonmoney items received in connection with a fund-raising event?

FACTS PRESENTED:

The Ethics Commission has received a written request for an advisory opinion from Mr. Kenneth Hall, who holds the position of Vice President of Governmental Affairs with the Arkansas State Chamber of Commerce. In his advisory opinion request, Mr. Hall seeks advice concerning the correct manner for a political action committee ("PAC") to report nonmoney items received in connection with a fund-raising event. Specifically, the Arkansas State Chamber PAC and the Associated Industries of Arkansas PAC are jointly sponsoring a golf tournament open to members of the general public which will be held on September 26, 2001. In addition to entry fees and sponsorships, the PACs have received nonmoney items to be given away as prizes at the tournament.

DISCUSSION:

Pursuant to Ark. Code Ann. § 7-6-215(d)(1), the total of all contributions received by a PAC must be reported. In addition, contributions which exceed \$500 must be itemized on the PAC's financial report. The term "contribution" is defined in Ark. Code Ann. § 7-6-201(4)(A) as follows:

. . . direct or indirect, advances, deposits, or transfers of funds, contracts, or obligations, whether or not legally enforceable, payments, gifts, subscriptions, assessments, payment for services, dues, advancements, forbearance, loans, pledge or promise of money or anything of value, whether or not legally

enforceable, to a candidate, committee, or holder of elective office, made for the purpose of influencing the nomination or election of any candidate.

Based on the foregoing definition, it is clear that a nonmoney item given to a PAC constitutes a contribution. As such, the nonmoney item must be reported by the PAC. The question is how the receipt of a nonmoney item should be reported.

The existing PAC reporting form breaks contributions into two categories, itemized contributions over \$500 and unitemized contributions, but it does not distinguish monetary contributions from nonmoney contributions. The itemized contributions and unitemized contributions listed in a particular report are totaled and entered on the first page of the reporting form and then used in calculating the balance of funds on hand at the close of the reporting period. If a PAC were to report nonmoney items in the existing sections of the reporting form, the balance of funds at close of reporting period reflected on the PAC's report would be incorrect. It thus appears that the current PAC reporting form needs to be amended.

The subject of how to report nonmoney contributions has been addressed by the Commission in its campaign contribution and expenditure report, its ballot question committee financial report, and its legislative question committee financial report. On all of the above mentioned reports, a separate section is provided for nonmoney contributions.

It stands to reason that a PAC should report nonmoney contributions in a similar manner. Until such time as the Commission revises the PAC reporting form, it would be appropriate for the PAC to report nonmoney contributions by attaching a separate schedule to the existing reporting form. Said schedule should include the following information:

1. For nonmoney contributions which had a value over \$500, the date of the receipt of the nonmoney item, the name and address of contributor, the description of the nonmoney item, the value of the nonmoney item, and the cumulative total from the contributor;
2. The total of those itemized nonmoney contributions;
3. The total of unitemized nonmoney contributions valued at \$500 or less; and,
4. The total of itemized and unitemized nonmoney contributions.

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

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