

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 2007-EC-003 Issued August 17, 2007

The Arkansas Ethics Commission has received a written advisory opinion request from Michael O. Parker, an attorney whose firm represents a group of related companies, one of which formed an approved political action committee ("PAC") several years ago. In his opinion request, Mr. Parker refers to those companies as "Company A," "Company B," and "Company C."

According to the opinion request, Company A organized Companies B and C as Delaware "single member" limited liability companies ("LLC's"). These two companies are treated as "disregarded entities"¹ for income tax reporting purposes under both the Internal Revenue Code and Arkansas law. They are, however, treated as separate entities for certain other federal and state tax and regulatory purposes.

Mr. Parker states that Company B and C both desire to make separate contributions to the Company A PAC. Based upon these facts, Mr. Parker asks if the Company A PAC may accept contributions of up to \$5,000 each from Company A, Company B and Company C.

A review of the statutes under the Ethics Commission's jurisdiction discloses that there are no specific provisions addressing the organizational structure of business corporations and their related entities, including LLC's. However, the term "person," as defined in Ark. Code Ann. § 7-6-201(14) and Section 200(p) of the Commission's Rules on Campaign Finance & Disclosure, does include "company" or "corporation." That definition provides as follows:

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.

¹ A "disregarded entity" is an entity that is formed and exists for state law, but which is deemed not to exist for federal tax purposes. Common forms of disregarded entities include single member limited liability companies and qualified Subchapter S corporation subsidiaries. See www.taxpayerid.us

The law allows annual contributions of up to \$5,000 annually to be accepted by “approved political action committees” from any “person.” As noted in Advisory Opinion No. 2002-EC-008, separate contributions to candidates by an individual owner and his related corporations are permissible so long as the entities are not “established or operated with the intent to circumvent the campaign contribution limit(s).” Because it appears from the information provided that Company A, Company B and Company C are established and operated as separate entities for legitimate business reasons, the Commission concludes that the Company A PAC may accept contributions of up to \$5,000 annually each from Company A, Company B and Company C.

This opinion is limited to the specific situation described herein and is being issued by the Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

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By:


Rita S. Looney, Chief Counsel