

# ARKANSAS ETHICS COMMISSION

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## ADVISORY OPINION NO. 2004-EC-004 Issued May 21, 2004

The Arkansas Ethics Commission has received a written advisory opinion request submitted on behalf of the Arkansas Bankers Association PACs (Group -1, Group-2, Group-3 and Group-4). Briefly stated, the question asked is whether or not an Arkansas approved political action committee may accept a contribution from an out-of-state political action committee, assuming that the contribution is within the limitations set forth in Arkansas law as to amount and time period.

The two types of political action committees ("PACs") regulated by Arkansas law are approved PACs and small donor PACs. Ark. Code Ann. § 7-6-201(1)(A) (2003 Supp.) defines an "approved political action committee" as any person<sup>1</sup> who:

- (i) Receives contributions from one (1) or more persons in order to make contributions to candidates;
- (ii) Does not accept any contribution or cumulative contributions in excess of five thousand dollars (\$5,000) from any person in any calendar year; and
- (iii) Has been registered pursuant to § 7-6-215 for at least four (4) continuous months prior to making contributions to candidates.

"Small donor political action committee," as defined in Ark. Code Ann. § 7-6-201(15), means any person who:

- (A) Receives contributions from one (1) or more individuals in order to make contributions to candidates;
- (B) Does not accept any contribution or cumulative contributions in excess of twenty-five dollars (\$25.00) from any individual in any calendar year; and

<sup>1</sup> The term "person" is defined in Ark. Code Ann. § 7-6-201(12) (2003 Supp.) as "any individual proprietorship, firm, partnership, joint venture, syndicate, labor union, business trust, company, corporation, association, committee, or any other organization or group of person acting in concert."

(C) Is registered pursuant to § 7-6-215 prior to making contributions to candidates.

The Commission has addressed the issue of contributions received by an Arkansas approved PAC from an out-of-state PAC in Advisory Opinion No. 92-EC-003. In that opinion, the commission opined that an out-of-state PAC may contribute to an in-state PAC within the monetary limits of Arkansas law for contributions. While the statutory contribution limit has increased since that opinion was issued, the remainder of the applicable statute has not been modified.

Although the specific question raised herein relates to approved PACs, it should be noted that by definition small donor PACs can only receive \$25.00 contributions from *individuals*. Therefore, it would not be permissible for a small donor PAC to receive a contribution in any amount from an out-of-state PAC.

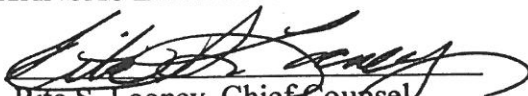
In 1999, the Commission issued Advisory Opinion 99-EC-019 in which it addressed the question of whether it is permissible for a registered PAC (either approved or small donor) to make a contribution to another registered PAC. Therein, the Commission concluded that because neither approved PACs nor small donor PACs are statutorily authorized to use contributions received for any purpose other than making contributions to candidates, it was not permissible for a registered PAC to make a contribution to another PAC.

This prohibition applies to the making of contributions and not the receipt thereof. Because Arkansas law allows approved PACs to receive contributions from a "person" as defined in Ark. Code Ann. § 7-6-201(12) (2003 Supp.), it appears that there is no prohibition in Arkansas law against any type of entity enumerated, whether it be a corporation, association or a committee (including a PAC), from making contributions to an Arkansas approved PAC.

Accordingly, unless and until there are substantive changes in the law related to Arkansas PACs, an Arkansas approved PAC is not in violation of Arkansas law by accepting a contribution of \$5,000 or less in any calendar year from a "person" as defined in Ark. Code Ann. § 7-6-201(12) (2003 Supp.), so long as that person is not a foreign corporation and is a citizen of the United States.

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

**ARKANSAS ETHICS COMMISSION**

By:   
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