



ARKANSAS ETHICS COMMISSION

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EC-001

May 30, 1991

Mr. David A. Beanblossom
Senior Counsel
Eastman Chemical Company
P. O. Box 511
Kingsport, TN 37662

Dear Mr. Beanblossom:

You have requested this Commission's opinion under authority of Initiated Act 1 of 1990 to two (2) questions which I have paraphrased for purposes of this opinion. Your question number 1 paraphrased is:

Can the provisions of Arkansas' campaign ethics laws which are intended to regulate contributions to candidates for state office act to proscribe the actions of a political action committee set outside the State of Arkansas, and intended to contribute to candidates for federal elections, so as to prevent such PAC's from contributing to state candidates because each individual's contribution to the PAC is above the \$200 limit set out in Arkansas law?

Initiated Act 1 of 1990, also known as the Standards of Conduct and Disclosure Act for Candidates and Political Campaigns; Section 1 (A.C.A. Section 7-6-201) defines political action committees for purposes of Arkansas election laws.

A.C.A. Section 7-6-201 (a) states that:

an "approved political action committee" means any person who (a) receives contributions from one or more persons in order to make contributions to candidates, (b) does not accept any contributions or cumulative contributions in excess of two hundred dollars (\$200) from any person in any calendar year . . ."

"Person" is defined in Arkansas law as ". . . a business, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons." [21-8-402(B)]

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Other sections of Arkansas law pertinent to your opinion request state [A.C.A. Section 7-6-201]:

(e) "It shall be unlawful for any candidate for any public office, or any person acting in the candidate's behalf to accept any contributions from a prohibited political action committee for any election. It shall be unlawful for any prohibited political action committee to make a contribution to a candidate for public office in an election."

It is my opinion that political action committees, or PACs, which operate in the State of Arkansas by making campaign contributions to candidates for state office must (a) meet this state's specifications for a legal or "approved" political action committee, and (b) operate within the guidelines of this state's campaign ethics laws.

It is my opinion that a political action committee which accepts contributions above the limits set out in Arkansas statutory law is not an "approved" political action committee. Any contributions by such a political action committee to candidates for Arkansas state office would be in violation of Arkansas law. Any candidate for Arkansas state office accepting such contribution would also be in violation of state law.

It naturally follows, in my opinion, that the PAC you describe in your letter would not be an approved PAC, and could not contribute to candidates for state office. Allowing a PAC which sets itself up under a guise of being "out of state" or for "federal election campaigns," but yet capable of funneling contributions into Arkansas' campaign process would eviscerate our state campaign statutes and undermine regulatory measures taken by Arkansas voters in voting these statutes into law.

The second part of your question paraphrased is:

Could the Arkansas Ethics Commission, as has similar commissions in other states, assist in suggesting a solution to the apparent dilemma described, by accepting a practice, for example, of allowing a PAC which does not technically fall within the statutory definition for an "approved political action committee," to make contributions to candidates for state office which do not violate the \$200 limit set out in Arkansas Statute?

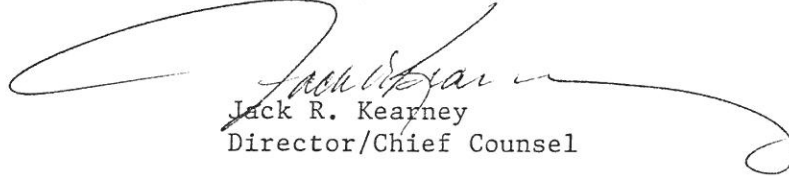
Present Arkansas law forbids the PAC you describe from contributing to candidates for state office, as my response to the first question indicates. This Commission is not authorized to, and would not be inclined to offer prospective suggestions on what state law should be in order to accommodate situations present law does not provide for the Commission, thus, will not suggest or sanction an circumvention of present law, nor will this Commission attempt to read the collective minds of the legislature or second-guess that body as to its intent when it enacted this state's legislation. We will only offer opinions on and follow the law as it is written. We must, and will, assume that our legislature enacted a law which states what it intended to state. The plain language of the law renders a PAC which accepts

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more than \$200 from an individual a "non-approved" political action committee for purposes of Arkansas' state campaign process.

It appears then, that in order to participate in the Arkansas state electoral process, your concern must form a separate PAC which conforms to state law.

Sincerely,



Jack R. Kearney
Director/Chief Counsel

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