



**MISSOURI ETHICS COMMISSION**

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Julie A. Allen

Executive Director

August 23, 2010

Opinion No. 2010.08.CF.003

At the August 23, 2010 meeting, the Missouri Ethics Commission amended the opinion first issued to you on August 16, 2010. The following is the Commission's response to your questions and amends any previous response to your question as follows:

*Our organization is a 501c6 trade association. Our individual members contribute to a continuing committee through both dues billing and direct contributions. Those individual contributions are divided between our local and state continuing committees. Member payments by check or credit card are paid to the association.*

*Under SB844, effective August 28, 2010, can we as a local 501c6 trade association collect PAC contributions from our individual members, then send a portion of those contributions from our local association to our state association (either to the association or to the state association PAC), and a portion to our local PAC? The checks would be written from the association and not the PAC, and deposited into the PAC account. The contributions would all be individually reported to the MEC.*

SB844, effective August 28, 2010, repeals the category of "continuing committee" under Chapter 130. The legislature has created a category of "political action committee" under §130.011, RSMo under the same definition that existed for continuing committees. §130.031.13, RSMo, effective August 28, 2010, states the following:

Political action committees shall only receive contributions from individuals; unions; federal political action committees; and corporations, associations, and partnerships formed under chapters 347 to 360, and shall be prohibited from receiving contributions from other political action committees, candidate committees, political party committees, campaign committees, exploratory committees, or debt service committees...

Effective August 28, 2010, political action committees can receive contributions from individuals and associations formed under chapters 347 to 360. PACS are prohibited from receiving contributions from other political action committees. PACS may receive contributions directly from your individual members, but PACS cannot receive contributions from other PACs.

Your request is based upon individual contributions from members which are paid to your association. The Commission does not take a position on whether the law governing your association authorizes you to deposit contributions which meet the definition of §130.011, RSMo into your association account. There are a number of provisions in Chapter 130 however, you should be aware of.

§130.011(7), RSMo defines a "committee" under the campaign finance disclosure law as:

a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee or for the purpose of contributing funds to another committee:

(a) "Committee", does not include:

c. A corporation, cooperative association, partnership, proprietorship, or joint venture organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure, and it accepts no contributions, and all expenditures it makes are from its own funds or property obtained in the usual course of business or in any commercial or other transaction and which are not contributions as defined by subdivision (12) of this section;

e. A person who acts as an authorized agent for a committee in soliciting or receiving contributions or in making expenditures or incurring indebtedness on behalf of the committee if such person renders to the committee treasurer or deputy treasurer or candidate, if applicable, an accurate account of each receipt or other transaction in the detail required by the treasurer to comply with all record-keeping and reporting requirements of this chapter;

In the event that your association or the state association is a corporation which accepts contributions and makes expenditures under this definition, that association may be considered a "committee" which meets the definition of political action committee under SB844. The prohibitions of §130.031.13, RSMo then apply. In the event your association is acting as an authorized agent for a committee, you would not be considered a committee as long as you comply with the record-keeping and notice requirements. Finally, in the event your association is a "connected organization under the definition of §130.011(11), RSMo, it must be listed on an affiliated committee's statement of committee organization under §130.021.5(1) and (5), RSMo.

§130.021.4(1) RSMo, specifically provides that contributions received by a committee shall be deposited in a committee's official depository account. Contributions shall not be accepted and expenditures shall not be made by a committee except by or through an official depository account and the committee treasurer, deputy treasurer or candidate. The statute also specifically

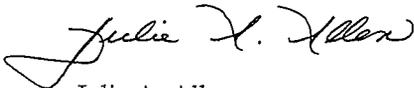
states that contributions received by a committee shall not be commingled with any funds of an agent of the committee.

§130.036.1, RSMo contains an exception to the prohibition on commingling of funds for individuals and specific entities which serve as agents. That section provides:

Notwithstanding the provisions of subsection 4 of section 130.021 prohibiting commingling of funds, an individual, trade or professional association, business entity, or labor organization which acts as an agent for a committee in receiving contributions may deposit contributions received on behalf of the committee to the agent's account within a financial institution within this state, for purposes of facilitating transmittal of the contributions to the candidate, committee treasurer or deputy treasurer. Such contributions shall not be held in the agent's account for more than five days after the date the contribution was received by the agent, and shall not be transferred to the account of any other agent or person, other than the committee treasurer.

Therefore, in the event your association is acting as an agent for a committee in receiving contributions, Chapter 130 permits you to deposit the contributions into your general fund within a financial institution in the State of Missouri, for the purpose of transmitting the contributions to a committee. The contributions cannot be held for more than 5 days following receipt and must be transferred within that time to the committee treasurer along with the individual contributor information as set forth in Chapter 130, RSMo. This will permit the political action committee to report the identity of the contributor and the amount of the contribution.

Sincerely,



Julie A. Allen  
Executive Director, PMP, CPA