



MISSOURI ETHICS COMMISSION
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James Klahr
Executive Director

March 27, 2017

Re: Advisory Opinion No. 2017.03.CF.010

Dear

At the March 27, 2017 meeting of the Missouri Ethics Commission, your request for an opinion was discussed.

Opinion

Pursuant to §105.955.16, RSMo, the Missouri Ethics Commission may issue a written opinion regarding any issue on which the Commission can receive a complaint pursuant to §105.957, RSMo. The Commission receives complaints alleging violation of campaign finance provisions of Missouri law. This opinion is issued within the context of Missouri's laws governing such issues, and assumes the facts presented by you in your letter:

The question presented and the Commission's opinion are as follows:

Art. VIII, Sec. 3(3)(a) states: "It shall be unlawful for a corporation or labor organization to make contributions to a campaign committee, candidate committee, exploratory committee, political party committee or a political party; except that a corporation or labor organization may establish a continuing committee which may accept contributions or dues from members, officers, directors, employees or security holders."

Art. VIII, Sec. 3(12) states: "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, RSMo, as amended from time to time, 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. However, candidate committees, political party committees, campaign committees, exploratory committees, and debt service committees shall be allowed to return contributions to a donor political action committee that is the origin of the contribution."

Art. VIII, Sec. 7(6)(d) states: "Connected organization", any organization such as a corporation, a labor organization, a membership organization, a cooperative, or trade or professional association which expends funds or provides services or facilities to establish, administer or maintain a committee or to solicit contributions to a committee from its members, officers,

directors, employees or security holders. An organization shall be deemed to be the connected organization if more than fifty percent of the persons making contributions to the committee during the current calendar year are members, officers, directors, employees or security holders of such organization or their spouses.

Therefore, in reading these provisions together, and assuming I am not concerned with a corporation exempted by Art. VIII, Sec. (3)(b))(i-iii), and noting the MEC equates Continuing Committees with Political Action Committees (PAC) see, AO 2017.02.CF.002:

- a. *May a labor organization or corporation make contributions to a political action committee to which they are not connected and did not establish, or does the MEC deem the exception in Art. VIII, Sec. 3(3)(a) to mean labor organizations and corporations can only make contributions from the "dues from members, officers, directors, employees or security holders" to PACs that are connected to or established by the labor organization or corporation in question?*
- b. *Is the reverse true? May a PAC connected to a specific labor organization or corporation as described in Art. VIII, Sec. 3(3)(a), or as described in Art. VIII, Sec. 7(6)(d), receive contributions from corporations or labor organizations which did not establish, and/or are not connected, to the PAC in question?*
- c. *May a labor organization or corporation only contribute to their own established PACs through "dues from members, officers, directors, employees or security holders" or is the language not so limiting since Art. VIII, Sec. 3(12) seems to indicate PACs can receive monies directly from labor organizations' or corporations' general treasuries as well?*
- d. *Is the reverse true, May a PAC established or connected to a labor organization or corporation receive contributions from the general treasuries of labor organizations or corporations that are not connected to and/or did not establish the PAC in question?*

Supporting Analysis

Art. VIII, §23.3(3)(a) and (b) provide prohibitions on corporate and labor organization contributions as follows:¹

(3) (a) It shall be unlawful for a corporation or labor organization to make contributions to a campaign committee, candidate committee, exploratory committee, political party committee or a political party; except that a corporation or labor organization may establish a continuing committee which may accept contributions or dues from members, officers, directors, employees or security holders.

¹ In 2017.02.CF.002, the Commission opined that continuing committees and political action committees are the same type of committee. Likewise, the Commission interprets "unions" and "labor organizations" to be the same type of entity despite the fact that the constitutional provision refers to these in separate subsections and the term "union" is not defined.

(b) The prohibition contained in subdivision (a) of this subsection shall not apply to a corporation that:

- (i) Is formed for the purpose of promoting political ideas and cannot engage in business activities; and
- (ii) Has no security holders or other persons with a claim on its assets or income; and
- (iii) Was not established by and does not accept contributions from business corporations or labor organizations.

§23.3(12) however, provides that political action committees/continuing committees are authorized to receive contributions from “unions” and “corporations, associations, and partnerships formed under chapters 347 to 360, RSMo, as amended from time to time...”

While both sections do not specifically reference the term “connected organization”, it is defined as follows:

any organization such as a corporation, a labor organization, a membership organization, a cooperative, or trade or professional association which expends funds or provides services or facilities to establish, administer or maintain a committee or to solicit contributions to a committee from its members, officers, directors, employees or security holders. An organization shall be deemed to be the connected organization if more than fifty percent of the persons making contributions to the committee during the current calendar year are members, officers, directors, employees or security holders of such organization or their spouses. Art. VIII, §23.7(6)(d) and §130.011(11), RSMo.

Once a connected organization is established and reported to the Commission on a statement of committee organization, the costs of establishing, administering or maintaining a committee, or the solicitation of contributions if solely directed to members, officers, directors, employees or security holders are not “contributions” or “expenditures” to the connected committee under Art. VIII, §23.7(8)(d) and §23.7(13)(e); and §130.011(12)(i)(d) and §130.011(16)(e)(e), RSMo.

Labor Organization and Corporate Contributions to Connected PACs

Art. VIII, §23.3(3)(a) creates various prohibitions on contributions from corporations and labor organizations, but authorizes the establishment of a “connected” political action/continuing committee (hereinafter “PAC”) which may accept contributions or dues from members, officers, directors, employees or security holders. It is the Commission’s opinion that because this section expressly authorizes specific types of individual contributions but does not specifically authorize the contributions from the entity’s treasury or funds, a corporation or labor organization may not contribute its own funds to its connected political action/continuing committee.

Labor Organization and Corporate Contributions to PACs Not Connected to the Labor Organization or Corporation

Art. VIII, §23.3(12), provides that PACs are authorized to receive contributions from “unions” and “corporations, associations, and partnerships formed under chapters 347 to 360, RSMo....Therefore, while labor organizations and corporations are limited from contributing funds to their connected committee, they may contribute to an unconnected PAC as long the contribution is authorized under §23.3(12).

Receipt of Contributions by a PAC which is Connected to a Corporation or Labor Organization

Art. VIII, §23.7(6)(d) states that “an organization shall be deemed to be the connected organization if more than fifty percent of the persons making contributions to the committee during the current calendar year are members, officers, directors, employees or security holders of such organization or their spouses.” In addition, §23.3(12) authorizes political action committees/continuing committees to receive contributions from “unions” and “corporations, associations, and partnerships formed under chapters 347 to 360, RSMo, as amended from time to time...”

Given that the definition of a connected organization assumes that a connected committee may receive 49% of its contributions from other sources, and that the §23.3(12) specifically authorizes labor organization and certain corporations to contribute to PACs, it is the Commission’s opinion that a connected PAC may receive contributions from other contributors, including corporations or labor organizations which did not establish, and/or are not connected, to the committee in question.

To the extent that a connected committee may seek to receive contributions from unconnected contributors, it may use committee funds to solicit contributions. However, a connected labor union or corporation may not use treasury or corporate funds to solicit funds from outside sources as those solicitations are contributions under Art. VIII, §23.7(7)(h).

Sincerely,



James Klahr
Executive Director