

# **RULES OF THE ETHICS COMMISSION PROPOSED AMENDMENTS and/or DRAFTS**

**for the 2009 Legislative Session**

**[Section 257:1-1-1 et seq., 74 O.S. Supp. 2008, Ch. 62, App.]**

**for consideration at the August 22, 2008**

**Regular Meeting of the Ethics Commission<sup>1</sup>**

[incorporated into the Notice/Agenda by reference]

## **SYNOPSIS OF AMENDMENTS**

| <b>Amendment</b> | <b>Section</b>      | <b>Subject</b>   |
|------------------|---------------------|--|
|                  |                     | [Former Amendment #1 was withdrawn by its sponsor, Vice Chairman Raley]  |
| 1.               | 257:10-1-2(c)(6)    | adopts a "good faith effort" standard for obtaining a contributor statement; after making one effort [sets standards for effort], holds treasurer harmless from being out of compliance  |
| 2.               | 257:10-1-14(a)(12)  | requires a description of the consideration, and an explanation of the purpose — which must permit a reasonable person to determine the reason for the purchase — of campaign expenditures of more than \$50 during the reporting period, the name and address of the person to whom the expenditure was made, the beneficiary of the expenditure, and the year to date total. Disbursements to consultants, advertising agencies, and similar firms; credit card expenses; and candidate reimbursements are required to be itemized to permit a reasonable person to determine the ultimate intended recipient of the expenditure and its purpose   |
| 3.               | 257:10-1-2(a) & (c) | places an aggregate two-year contribution limit for individuals of \$50,000 on contributions to candidates or the authorized committees of candidate for state office, and undetermined two-year limits for PACs and political parties to become effective 1/1/10; it would also add a declaration to the contributor statement, either [Alternative 1], that the contributor understands the contribution may or may not be expended consistent with his or her political views or in support of candidates he or she supports, or [Alternative 2], if the contribution is to a PAC or political party, that a portion may be expended on contribution(s) to candidates(s) he or she does not support |
| 4.               | 257:10-1-2(e)       | allows twice yearly solicitations of corporate employees who are not considered executive or administrative personnel  |

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<sup>1</sup>Commission procedure is to receive oral or written comments on rule amendments at each regular meeting throughout the year, with formal public hearings held in November and December. A vote will then be taken on proposals at the January 2009 Regular Meeting.

5. 257:27-1-9(f) allows solicitations and acceptance of things of value for 501(c)(3) charitable organizations only [defined in 257:1-1-2] for victims in need of assistance due to an accident, disease, disability or natural disaster; allows solicitations for participation in a fundraising event for conducting research to alleviate or assist such victims; also allows humanitarian efforts to assist such victims who are state officers or state employees or the immediate family members of state officers or employees; no longer excepts 501(c)(4)'s [social welfare advocacy groups], 501(c)(5)'s [labor unions] or 501(c)(6)'s [trade associations and business leagues]

# ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

## RULE AMENDMENT

No. 1

\_\_\_\_\_  
(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-2(c) as follows:

**Rule 257:10-1-2. Contributions.**

\* \* \*

(c) **Contributor statement.** Within ten (10) business days of accepting a single contribution exceeding fifty dollars (\$50.00), or before accepting multiple contributions from a single source which exceed fifty dollars (\$50.00) in the aggregate, persons accepting contributions must obtain from each contributor a statement which shall include:

\* \* \*

(6) the signature of the contributor, or in the case of a committee, the treasurer or, in the treasurer's absence, the deputy treasurer of the committee.

Persons accepting contributions from contributors who contribute by payroll deduction, dues check-off, or similar process shall be required to obtain only one contributor statement annually or at such other times as a change is made in the deduction, check-off, or similar process.

If a contributor statement obtained pursuant to the provisions of this subsection is incomplete, the treasurer shall make at least one effort after acceptance of the contribution to obtain the missing information. Such effort shall consist of either a written or electronic request sent to the contributor. Such request must be made no later than thirty (30) days after acceptance of the contribution. The request shall not include material on any other subject or any additional solicitation, except that it may include language solely thanking the contributor for the contribution. The request must clearly ask for the missing information and must include an accurate statement of this rule regarding the collection and reporting of contribution identifications. All requests must include the statement in a clear and conspicuous manner. The request shall be accompanied by a pre-addressed return post card or envelope for the response material. If the treasurer makes such effort within the time period prescribed in this paragraph, the person accepting the contribution shall be deemed to be in compliance with the provisions of this subsection.

Submitted by

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Commissioner

**Explanation:** This amendment would [See Synopsis of Amendments, Pages 1-4]

**Purpose:** The purpose of this amendment would be to hold harmless treasurers from obtaining contributor statements if certain steps are taken.

**Person requesting amendment:** This amendment was submitted by H.J. Reed, Lobbyist, ConocoPhillips, and Lee Slater attorney.

# ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

## RULE AMENDMENT

No. 2

\_\_\_\_\_  
\_\_\_\_\_  
(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-14(a)(12) as follows:

### **257:10-1-14. Report contents**

(a) **Basic reporting form.** The campaign contributions and expenditures report shall include:

\* \* \*

(12) the following information about expenditures:

\* \* \*

(A) the total of expenditures made during the reporting period and the year-to-date or campaign-to-date total;

(B) the amount, ~~the~~ date, ~~and~~ a brief description of the consideration, and an explanation of the purpose — which must permit a reasonable person to determine the reason for the purchase — ~~what was purchased for which~~ each individual campaign expenditure was made in excess of fifty dollars (\$50.00) in the aggregate to one (1) entity ~~made~~ during the reporting period, ~~and the purpose of the expenditure~~ the name and address of the person to which the expenditure was made, the beneficiary of the expenditure, and the year to date total. Disbursements to consultants, advertising agencies, and similar firms; credit card expenses; and candidate reimbursements must be itemized to permit a reasonable person to determine the ultimate intended recipient of the expenditure and its purpose.

(C) the total amount of all campaign expenditures not required to be reported in Subparagraph (B).

(D) Committees may file all expenditures in lieu of the additional bookkeeping requirement of grouping together all expenditures aggregating \$50 or less to one entity and all expenditures aggregating more than \$50 to one entity;

Provided, a committee shall not divide expenditures which would otherwise be made individually for the purpose of evading the reporting requirements of this paragraph;

\* \* \*

Submitted by

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Vice Chairman Raley

**Explanation:** This amendment would amend Section 257:10-1-14(a)(12) to require a description of the consideration, and an explanation of the purpose — which must permit a reasonable person to determine the reason for the purchase — of campaign expenditures of more than \$50 during the reporting period, the name and address of the person to whom the expenditure was made, the beneficiary of the expenditure, and the year to date total. Disbursements to consultants, advertising agencies, and similar firms; credit card expenses; and candidate reimbursements would be required to be itemized to permit a reasonable person to determine the ultimate intended recipient of the expenditure and its purpose.

**Purpose:** The purpose of this amendment would be to require disclosure of persons to whom expenditures are made what was purchased.

**Person requesting amendment:** This drafting of this amendment was requested by Vice Chairman Raley.

# ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

## RULE AMENDMENT

No. 3

\_\_\_\_\_  
(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-2(a) and (c) as follows:

### **257:10-1-2. Contributions**

#### **(a) Limitations on contributions from an individual.**

(1) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than

(A) Fifty thousand dollars (\$50,000) to candidates for state office or to candidate committees authorized by such candidates;

(B) XXXXXXXXXX dollars (\$XX,XXX) to political action committees; and

(C) XXXXXXXXXX dollars (\$XX,XXX) to party committees.

This Paragraph (a) shall become effective January 1, 2010.

#### **(b) Limitations on contributions from a person.**

(1) No person or family may contribute more than five thousand dollars (\$5,000) to a political action committee or a party committee in any calendar year. No political action committee or party committee shall knowingly accept a contribution from a person or family in excess of five thousand dollars (\$5,000) in a calendar year. Contributions to be used for federal election activity, as defined in 2 U.S.C. § 431(20), and subject to the requirements of 2 U.S.C. § 441i, commonly referred to as "Levin Funds", shall not be aggregated with other contributions to a party committee.

(2) No person or family may contribute more than five thousand dollars (\$5,000) to a candidate for state office or to a candidate committee authorized by such a candidate to accept contributions or make expenditures on his behalf during a campaign as defined in Chapter 1, Section 2 and as provided in Paragraphs (4) and (5) of this subsection. No candidate or candidate committee shall knowingly accept a contribution in excess of five thousand dollars (\$5,000) from a person or family during a campaign.

(3) These restrictions do not apply to:

(A) a committee supporting or opposing a ballot measure; or

(B) a candidate making a contribution of his or her own funds, to his or her campaign; or

(C) a political party making a contribution according to the restrictions set forth in Subsection (b) of this section.

(4) For purposes of this subsection, if a candidate:

(A) begins a campaign for a specific state office;

(B) accepts one or more contributions for such campaign but prior to the election therefor chooses not to run for such office and becomes a candidate for a different office; and

(C) transfers all or any part of the contributions accepted for the first campaign to the second campaign;

the second campaign shall be deemed to have begun when the candidate began the first campaign.

(5) For purposes of this subsection, if a candidate:

(A) does not dissolve his or her candidate committee after the election at which the office at stake is decided;

(B) accepts one or more contributions for such committee after such election; and

(C) begins a campaign for the same or another office in a subsequent election cycle;

any contributions accepted within six (6) months prior to the beginning of the campaign for the same or another office in a subsequent election cycle shall be applied to the limit specified in Paragraph (2) of this subsection for such campaign.

(6) The \$5,000 limitation is to be applied collectively and cumulatively so that any contribution made by the entities as set forth in the definition of "person" in Section 2 of Chapter 1 of this title, shall be allocated to the individuals owning such entities in their percentage of ownership. Once the limit of \$5,000 is reached, applying all sources to the individual or family, no further contributions can be made during the campaign or calendar year.

~~(b)~~ (c) **Limitations on contributions from a political party committee.** A candidate committee shall not accept contributions from a political party of more than:

(1) fifty thousand dollars (\$50,000) per campaign in the case of a candidate for governor; and

(2) twenty-five thousand dollars (\$25,000) per campaign in the case of a candidate for other non-federal statewide elective office.

**CAVEAT:** This provision, increasing the amount of contributions a political party may give to its statewide candidates, is inconsistent with Section 187.1 of Title 21 of the Oklahoma Statutes, which attaches a criminal penalty to contributions from any person or family to a state candidate in excess of \$5,000.

~~(e)~~ (d) **Contributor statement.** Within ten (10) business days of accepting a single contribution exceeding fifty dollars (\$50.00), or before accepting multiple contributions from a single source which exceed fifty dollars (\$50.00) in the aggregate, persons accepting contributions must obtain from each contributor a statement which shall include:

(1) the date the contribution was given;

- (2) the name and address, occupation [e.g. "retail sales clerk"] and employer [e.g. "Dillard"], or principal business activity of the contributor; a contribution from a person other than an individual or a committee shall be reported by the name of the person or committee and not the individual who signed the check;
- (3) the amount; if in-kind, a description of the contribution and a good faith estimate of its fair market value;
- (4) a declaration that the contribution is for a campaign in the State of Oklahoma, and the contribution is freely and voluntarily given from the contributor's personal property, if an individual, or the person or committee's property, if other than an individual;
- (5) a declaration that the contributor has not been directly or indirectly compensated or reimbursed for the contribution, if an individual, and, if a person other than an individual or a committee, that the person or committee has not been compensated or reimbursed for the contribution by persons:
  - (A) other than those from whom contributor statements have been received and of whom disclosure has or will be made; or
  - (B) if from persons exempted from the definition of political action committee, by other persons; and

#### ALTERNATIVE 1

- (6) if an individual, a declaration, in the case of contributions to a political action committee or a political party, that the contributor understands that the contribution, or a portion thereof, may or may not be expended consistently with the contributor's personal political views or in support of candidates that the contributor supports; and

#### ALTERNATIVE 2

- (6) if an individual, a declaration, in the case of contributions to a political action committee or a political party, that the contributor understands that the contribution, or a portion thereof, may be expended on a contribution or contributions to a candidate or candidates that the contributor does not support; and
- (7) the signature of the contributor, or in the case of a committee, the treasurer or, in the treasurer's absence, the deputy treasurer of the committee.

Persons accepting contributions from contributors who contribute by payroll deduction, dues check-off, or similar process shall be required to obtain only one contributor statement annually or at such other times as a change is made in the deduction, check-off, or similar process.

#### ~~(d)~~(e) **Prohibitions and exceptions to corporate and labor organization contributions and expenditures.**

- (1) No corporation or labor organization shall contribute to any campaign fund of any party committee of this state or to any other person for the benefit of such party committee or its candidates, nor shall it, through any agent, officer, representative, employee, attorney, or any other person or persons, so contribute. Nor shall any such corporation or labor organization, directly or through such other person, make any loan of money or anything of value, or give or furnish any privilege, favor or other thing of value to any party committee, or to any

representative of a party committee, or to any other person for it, or to any candidate upon the ticket of any political party.

(2) A corporation or labor organization shall not make a contribution or an expenditure or an independent expenditure to, or for the benefit of, a candidate or committee in connection with an election or for any electioneering communication, except that this provision shall not apply to:

(A) a campaign or committee solely for or against a ballot measure or local question; or

(B) the establishment, administration, and solicitation of contributions to a political action committee to be utilized for political purposes by a corporation or labor organization.

(3) **Permissible use of corporate and labor organization funds for certain electioneering communications.** An electioneering communication shall satisfy Subparagraph (2) of this subsection if it meets the requirements of either Subparagraph (3)(A) or (3)(B) of this subsection:

(A) **Grassroots lobbying communications.** Any communication that:

(i) exclusively discusses a pending state legislative or executive matter or issue;

(ii) urges an officeholder to take a particular position or action with respect to the matter or issue, or urges the public to adopt a particular position and to contact the state officeholder with respect to the matter or issue;

(iii) does not mention any election, candidacy, political party, opposing candidate, or voting by the general public; and

(iv) does not take a position on any candidate's or officeholder's character, qualifications, or fitness for office.

(B) **Commercial and business advertisements.** Any communication that:

(i) exclusively advertises an elective officer's or state officeholder's business or professional practice or any other product or service;

(ii) is made in the ordinary course of business of the entity paying for the communication;

(iii) does not mention any election, candidacy, political party, opposing candidate, or voting by the general public; and

(iv) does not take a position on any candidate's or officeholder's character, qualifications, or fitness for office.

(C) **Reporting requirements.** Corporations and labor organizations that make an electioneering communication or series of electioneering communications under Paragraph (A) aggregating in excess of \$5,000 in a calendar year shall file statements and reports as required by Subsection (c) of Section 16 of this chapter.

- (4) No candidate, candidate committee or other committee shall knowingly accept contributions given in violation of the provisions of Paragraphs (1) and (2) of this subsection.
- (5) The provisions of this subsection shall not apply to a bank, savings and loan association or credit union loaning money to a candidate in connection with his own campaign which is to be repaid with interest at a rate comparable to that of equivalent loans for other purposes.
- (6) The provisions of this subsection shall not apply to independent expenditures or electioneering communications made by a corporation that:
  - (A) has as an express purpose promoting social, educational, or political ideas and not to generate business income;
  - (B) does not have shareholders or other persons which have a financial interest in its assets and earnings; and
  - (C) was not established by a business corporation or other business entity, by a professional association, or by a labor organization and does not receive substantial revenue from such entities. Substantial revenue is defined as more than ten percent (10%) of total revenues or \$10,000, whichever is less, in a calendar year.

~~(e)~~ (f) **Prohibitions relating to committee solicitations and funds.** It shall be prohibited for:

- (1) a political action committee to accept a contribution or make an expenditure by using anything of value secured:
  - (A) by physical force, job discrimination, financial reprisals, or threat of the same; or
  - (B) by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, unless the making of such contributions is authorized by the organization's members;
- (2) a person to solicit a contribution from an employee in exchange for any advantage or promise of an advantage conditioned upon making a contribution, or reprisal or threat of reprisal related to the failure to make a contribution;
- (3) a corporation or political action committee of a corporation to solicit contributions to the political action committee from a person other than its members, shareholders, directors, executive and administrative personnel, and their families; and
- (4) corporate contributions to a committee or person for or against a ballot measure to be commingled with a fund established by such person or committee to contribute to candidate committees or committees which support or oppose candidates.

~~(f)~~ (g) **Prohibition on transfer of funds between committees.**

- (1) **Candidate committee transfers.**
  - (A) A candidate committee shall not make a contribution or transfer to another candidate, or to a political action committee which supports or

opposes candidates or ballot measures, nor shall it make an independent expenditure on behalf of another candidate or ballot measure. A political action committee which supports or opposes candidates or ballot measures shall not accept a contribution or transfer from a candidate committee. The principal candidate committee or an authorized committee of a person, as such terms are defined in Section 431 of Title 2 of the United States Code, shall not make a contribution to a candidate or make an independent expenditure on behalf of a candidate. A candidate or candidate committee shall not accept such a contribution.

(B) This subsection shall not prohibit a candidate or any other person from making a contribution from the candidate's or person's personal funds to his or her own candidate committee or on behalf of his or her own candidacy or to the committee of another candidate for a different office.

(C) This subsection shall not prohibit a candidate committee from providing its surplus funds or material assets to the state or local central committee of a political party in accordance with the procedures for dissolution of a candidate committee under Sections 19 and 20 of this chapter.

(2) **Political action committee transfers.** A political action committee shall not make a contribution to another political action committee. This subsection shall not prohibit a political action committee from making a transfer to its own affiliated or connected entity in accordance with the definition of contribution, Section 2, Paragraph (2), Subparagraph (B) of Chapter 1 of this title.

~~(g)~~ (h) **Aggregation of contributions.** For purposes of the contribution limitations, the following apply:

(1) Two (2) or more political action committees or party committees are treated as a single entity if the committees:

- (A) share the majority of members on their boards of directors;
- (B) are owned or controlled by the same majority shareholder or shareholders;
- (C) are in a parent-subsidiary relationship; or
- (D) have by-laws so stating; or
- (E) are affiliated or connected entities.

(2) A candidate committee and a committee other than a candidate committee are treated as a single committee if the committees both have the candidate or a member of the candidate's immediate family as an officer.

~~(h)~~ (i) **Attribution and aggregation of family contributions.**

(1) Contributions by a husband and wife are aggregated.

(2) Contributions by children under eighteen (18) years of age shall be considered to be contributions made by their parent, parents or legal guardian and shall be attributed to the family limit specified in Subsection (a) of this section. In the case of a single custodial parent, the total amount of such a contribution shall be considered to be a contribution made by the single custodial parent.

~~(j)~~ (i) **Restrictions on loans.**

- (1) A loan is considered a contribution from the lender, guarantor, and endorser of the loan and is subject to the contribution limitations of this section.
- (2) A loan to a candidate or the candidate committee shall be by written agreement.
- (3) The proceeds of a loan, regardless of the amount, made to a candidate:
  - (A) by a commercial lending institution;
  - (B) made in the regular course of business;
  - (C) on the same terms ordinarily available to members of the public; and
  - (D) which is secured or guaranteed solely by the candidate;are not subject to the contribution limits of this section.
- (4) A loan from one committee to another is prohibited.

~~(j)~~ (k) **Anonymous and earmarked contributions.**

- (1) A person shall not make to a committee and a committee shall not accept an anonymous contribution in excess of fifty dollars (\$50). The recipient of an anonymous contribution in excess of fifty dollars (\$50) shall, within two (2) business days, remit the contribution to the Commission to be deposited with the State Treasurer to the credit of the General Revenue Fund.
- (2) For purposes of the contribution limitations imposed by this section, all contributions made by a person, either directly or indirectly, to or for the benefit of a particular candidate committee, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate committee, shall be treated as contributions from such person to such candidate committee. It shall be prohibited for an intermediary or a conduit to make a contribution to a committee in his or her own name rather than the name of the original source of such contribution. For purposes of this paragraph, an intermediary or conduit means a person, who is not the treasurer, deputy treasurer or agent of a committee, but who is given a contribution by another with the understanding that it will be contributed to that committee. The reports shall show the correct name of the person actually making the contribution.

~~(k)~~ (l) **Reimbursement for contribution prohibited.** A person shall not, directly or indirectly, reimburse a person for a contribution to a candidate or committee.

~~(k)~~ (m) **Cash contributions.**

- (1) An individual shall not make to a candidate committee or a committee supporting or opposing a ballot measure and a candidate committee or a committee supporting or opposing a ballot measure shall not accept a contribution of more than fifty dollars (\$50) in cash during a campaign as defined in Chapter 1, Section 2. Agents accepting and delivering cash shall deliver contributor statements disclosing cash contributions equal to the aggregate amount of cash delivered.
- (2) A committee, or a person other than an individual, shall not make a contribution in cash.

~~(m)~~ (n) **Certain contributions required to be by written instrument.**

- (1) An individual shall not make a contribution of more than fifty dollars (\$50), other than an in-kind contribution, except by written instrument containing the name of the contributor and the name of the payee during a campaign as defined in Chapter 1, Section 2.
- (2) A committee, or a person other than an individual, shall not make a contribution, other than in-kind, except by written instrument containing the name of the contributor and the name of the payee.

~~(n)~~ (o) **Use of other funds.**

- (1) Anything of value which is solicited from the public in the name of or for the benefit of an elective officer or candidate, and which is accepted by an elective officer or candidate, shall be subject to the reporting requirements of this chapter. This would include, but not be limited to, things of value given for an inauguration or renovation of public property. Anything of value accepted by an agent or representative of an elective officer or candidate or by a committee established by, in the name of, or for the benefit of, an elective officer or candidate shall be deemed to be accepted by such elective officer or candidate for purposes of this section.
- (2) The use of such things of value shall be limited to the stated purpose or purposes for which such things of value were solicited.
- (3) Any surplus things of value which are not needed for the stated purpose or purposes shall be returned to the donors pursuant to a formula by which no donor receives more than his or her original donation or deposited with the State Treasurer to the credit of the General Revenue Fund.

~~(o)~~ (p) **Auctions.** When an auction is held by a committee as a fundraiser, a contributor statement shall be required with respect to each person donating an item to be auctioned and shall include the fair market value of each item donated.

- (1) If an item is sold for a price in excess of the established fair market value, the buyer thereof shall be deemed to have made a contribution in the amount of the price paid in excess of the established fair market value and the donor thereof shall be deemed to have made a contribution in the amount of the established fair market value.
- (2) If an item is sold at the established fair market value, the donor thereof shall be deemed to have made a contribution in the amount of the established fair market value and the buyer thereof shall not be deemed to have made a contribution.
- (3) If an item is sold at less than the established fair market value, the fair market value shall be reduced to the actual sale price and the donor thereof shall be deemed to have made a contribution in the amount of the sale price and the buyer thereof shall not be deemed to have made a contribution.

Submitted by

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Commissioner

**Explanation:** This amendment would [See Synopsis of Amendments, Pages 1-4]

**Purpose:** The purpose of this amendment would be to place an aggregate two-year limit for individuals of \$50,000 on contributions to candidates or the authorized committees of candidate for state office, and undetermined two-year limits for PACs and political parties to become effective 1/1/10; it would also add a declaration to the contributor statement, either [Alternative 1], that the contributor understands the contribution may or may not be expended consistent with his or her political views or in support of candidates he or she supports, or [Alternative 2], if the contribution is to a PAC or political party, that a portion may be expended on contribution(s) to candidates(s) he or she does not support.

**Person requesting amendment:** This amendment was continued at the request of the Vice Chairman John Raley.

# ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

## RULE AMENDMENT

No. 4

\_\_\_\_\_ (Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-2(e) as follows:

**257:10-1-2. Contributions**

\* \* \*

(e) **Prohibitions relating to committee solicitations and funds.**

(1) It shall be prohibited for:

(A) ~~(1)~~ a political action committee to accept a contribution or make an expenditure by using anything of value secured:

(i) ~~(A)~~ by physical force, job discrimination, financial reprisals, or threat of the same; or

(ii) ~~(B)~~ by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, unless the making of such contributions is authorized by the organization's members;

(B) ~~(2)~~ a person to solicit a contribution from an employee in exchange for any advantage or promise of an advantage conditioned upon making a contribution, or reprisal or threat of reprisal related to the failure to make a contribution;

(C) ~~(3)~~ a corporation or political action committee of a such corporation to solicit contributions to the political action committee from a person other than its members, shareholders, directors, executive and administrative personnel, and their families; and

(D) ~~(4)~~ corporate contributions to a committee or person for or against a ballot measure to be commingled with a fund established by such person or committee to contribute to candidate committees or committees which support or oppose candidates.

(2) It shall not be prohibited for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make two (2) written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this paragraph may be made only

by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of fifty dollars (\$50) or less as a result of such solicitation and who does not make such a contribution.

\* \* \*

Submitted by

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Commissioner

**Explanation:** This amendment would amend Section 257:10-1-2(e) by allowing twice yearly solicitations of corporate employees who are not considered executive or administrative personnel.

**Purpose:** The purpose of this amendment would be to expand the involvement in the political process to all employees of a corporation who may want to voluntarily be involved in their employer's political action committee.

**Person requesting amendment:** This amendment was requested by the law firm of Rhodes, Hieronymus, Jones Tucker & Gable, P.L.L.C. as follows:

**PETITION FOR RULE ADOPTION**

Rhodes, Hieronymus, Jones, Tucker & Gable P.L.L.C. ("Rhodes Hieronymus") is an Oklahoma law firm representing clients who have corporate political action committees in Oklahoma.

Oklahoma's regulations concerning solicitation of contributions by corporate political action committees prohibit solicitation of contributions and follow the federal regulations. Compare OKLA. STAT. Tit. 74, Ch. 62, App. 257:10-1-2(e)(3) with 11 C.F.R. 114.5(g). Oklahoma law provides:

(e) **Prohibitions relating to committee solicitations and fund.** It shall be prohibited for:

\* \* \*

(3) a corporation or political action committee of a corporation to solicit contributions to the political action committee from a person other than its members, shareholders, directors, executive and administrative personnel, and their families; and ...

OKLA. STAT. Tit. 74, Ch. 62, App. 257:10-1-2(e)(3). This section is virtually identical to the following exclusion under federal regulations:

A corporation or a separate segregated fund established by a corporation is prohibited from soliciting contributions to such fund from any person other than its stockholders and their families and its executive or administrative personnel and their families. A corporation may solicit the executive or administrative personnel of its subsidiaries, branches, divisions, and affiliates and their families.

11 C.F.R. § 114.5(g). Under both Oklahoma and federal law, a corporation's political action committee is prohibited from seeking solicitations from persons other than its stockholders, executive and administrative personnel, and their families. The federal regulations have much more thorough guidelines as to solicitations, and when exceptions to the general solicitation rules are allowable.

Twice a year, a corporation may expand its solicitation to include certain individuals outside its restricted class. Federal law provides:

(B) It shall not be unlawful for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of \$50 or less as a result of such solicitation and who does not make such a contribution.

2 U.S.C.A. §441b(4), and

(a) A corporation and/or its separate segregated fund may make a total of two written solicitations for contributions to its separate segregated fund per calendar year of its employees other than stockholders, executive or administrative personnel, and their families.

11 C.F.R. § 114.6. Thus, under federal law a corporate political action committee is allowed twice a year to solicit all its employees, including those not considered executive or administrative personnel. This is clear expression of an intention to expand the involvement in the political process to all employees of a corporation who may want to voluntarily be involved in their employer's political action committee.

In order to make Oklahoma law in congruence with federal law on the same issue, Rhodes Hieronymus requests that the Ethics Commission adopt the following rule, which would bring Oklahoma law in line with 2 U.S.C.A. § 441b(4)(B):

It shall not be unlawful for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make two (2) written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this paragraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of fifty dollars (\$50) or less as a result of such solicitation and who does not make such a contribution.

Respectfully submitted,

RHODES, HIERONYMUS, JONES, TUCKER & GABLE, P.L.L.C.

By: \_\_\_\_\_

Andrew D. Downing, OBA # 16414  
100 W Fifth St., Ste. 400 (74103-4287)  
P.O. Box 21100  
Tulsa, OK 74121-1100  
(918) 582-1173  
(918) 592-3390 (Facsimile)

# ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

## RULE AMENDMENT

No. 5

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:27-1-9(f) as follows:

**257:20-1-9. Restraints on solicitation or acceptance of anything of value—Disclosure**

\* \* \*

(f) **Exceptions for forms of compensation, gifts to state, gifts to charitable organizations, and officers/directors of professional organizations, and humanitarian efforts for state officers and state employees.** Nothing in this section shall prohibit the acceptance or require the disclosure of:

(1) compensation, bonuses, dividends, interest payments, employee benefits, expense reimbursements or other forms of compensation or earnings on investments;

(2) anything of value which is accepted by the Governor on behalf of the state of Oklahoma or a governmental entity pursuant to Section 381 et seq. of Title 60 of the Oklahoma Statutes. In order to be deemed accepted, the Governor must be notified in writing of any gift received by a governmental entity, or person on behalf of a governmental entity, within ten (10) days of receipt of the gift. Notice of acceptance must be received from the Governor within the next thirty (30) days. Upon lack of a response from the Governor within thirty (30) days of receipt of the notice, the gift is deemed rejected and must be returned to the donor; or

(3) the solicitation or acceptance of anything of value for or from either:

(A) a charitable organization or an organization described in Section 501 (c) of Title 26 of the United States Code, 26 U.S.C., Section 501 (c), as it currently exists or as it may be amended when the state officer or state employee is soliciting or receiving the thing or things of value

(i) due to a catastrophic accident or life threatening disease, illness or disability or a natural disaster suffered by a state officer or state employee, or an immediate family member of a state officer or state employee; or

(ii) for participation in a walk, run, or similar event as a fundraiser for a charitable organization established to assist victims of, or to conduct research to alleviate suffering or

prevent, a life threatening or catastrophic disease, illness or disability or victims of poverty or a natural disaster; or

(B) a tax-exempt professional organization established by state statute or rules passed by the Oklahoma Supreme Court, ~~by a member, when the state officer or state employee, who is a member, officer or director of the organization, when and the~~ receipt of anything of value results from the member, state officer or state employee attending a function, meeting or seminar on behalf of, or as a representative of, the organization; or

(4) the solicitation or acceptance of a thing or things of value on behalf of a state officer or state employee, or an immediate family of a state officer or state employee, as a humanitarian effort to assist a victim of a catastrophic accident or life threatening disease, illness or disability or a natural disaster.

\* \* \*

Submitted by

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Vice Chairman John Raley

**Explanation:** This amendment would allow solicitations and acceptance of things of value for 501(c)(3) charitable organizations only [defined in 257:1-1-2] for victims in need of assistance due to an accident, disease, disability or natural disaster; allow solicitations for participation in a fundraising event for conducting research to alleviate or assist such victims; also would allow humanitarian efforts to assist such victims who are state officers or state employees or the immediate family members of state officers or employees. The exception would no longer apply to 501(c)(4)'s [social welfare advocacy groups], 501(c)(5)'s [labor unions] or 501(c)(6)'s [trade associations and business leagues].

**Purpose:** The purpose of this amendment would be to allow solicitations for charitable organizations for victims of an accident, disease, disability or natural disaster or to participate in fundraisers for charitable organizations which conduct research to alleviate or assist such victims. It would also allow humanitarian efforts to assist such victims who are state officers or employees or the immediate family members of state officers or state employees.

**Person requesting amendment:** This amendment was requested by Vice Chairman John Raley