

**ADVISORY OPINION AO-1990-004
RECONSTITUTED AS ETHICS INTERPRETATION EI-1990-004
ISSUED AUGUST 13, 1990**

The Oklahoma Council on Campaign Compliance and Ethical Standards ["the Council"] has received your request for an advisory opinion asking, in effect:

Is an "advisory trust", formed for the purpose of accepting donations and issuing checks to support candidates for political office [which require the co-signature of the donor/member], an organization as defined in § 4202 (16) of the Oklahoma Campaign Compliance and Ethical Standards Act [Title 74 O.S. Supp. 1990, § 4200 et seq.] and, therefore, subject to the reporting requirements and contribution limits of the Act?

If so, what are the obligations of the organization under the Act, and how should candidates report receiving contributions from such a trust to comply with the Act?

Section 4202 (16) of the Act defines an organization as follows:

"Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, *trust*, partnership or association, union, education or action group or committee or entity with two or more persons having a joint or common political interest;

[emphasis added]

There is no controversy about whether the "advisory trust" is a "trust" or whether the trust was created for persons "having a joint or common political interest". It, therefore, follows that the "advisory trust" is an "organization" within the above meaning of that term.

As an organization, the next question is, "What are the obligations of the advisory trust under the Act?"

Section 4212 (A) reads, in pertinent part:

Political action committees shall register with the Oklahoma Council on Campaign Compliance and Ethical Standards within ten (10) days of organization or within ten (10) days of receiving or expending more than Two Hundred Dollars (\$200.00).

The term "political action committee" is not defined by the Act but is defined by Council Rule 2, Definition 5, which reads in pertinent part:

"Political Action Committee" means any committee, club, association or other group of persons voluntarily acting in concert which receives or expends two hundred dollars (\$200.00) or more for the purpose of promoting, opposing or attempting to influence any official action of any governmental entity in the State of Oklahoma or in support of or opposition to any campaign in the State of Oklahoma.

Thus, an organization, or in this case an advisory trust, which is also "a group of persons voluntarily acting in concert" which expend funds "in support of or opposition to any campaign in the State of Oklahoma" is also a "political action committee" and must register within ten days of organizing or receiving \$200 in contributions or spending more than \$200, whichever comes first.

The advisory trust also has reporting obligations under the Act. Section 4211 requires, in pertinent part:

Every candidate, political party and organization shall be required to file written reports of all contributions and expenditures as provided for in this act.

Section 4214 specifies the contents and form for the Campaign Contributions and Expenditures Reports [Form C-1], and Section 4215 specifies the various times for filing the reports. A Form C-1 is attached for your reference. If the trust was formed to support candidates for the 1990 state and county election only, it must file reports on the dates listed on the back of the form. If the trust is a continuing organization that will contribute to candidates in various elections, it will have the same reporting obligations as state and county candidates every two year cycle.

The advisory trust would be limited to receiving \$5,000 from any "person" or "family" during any calendar year pursuant to Section 4216, which reads in pertinent part:

No person or family may contribute more than Five Thousand Dollars (\$5,000.00) to a political party or *organization* in any calendar year. No *person* or family may contribute more than Five Thousand Dollars (\$5,000.00) to a candidate for state office or to a candidate for municipal office in a municipality with a population of over two hundred fifty thousand (250,000) persons, according to the most recent federal decennial census, or to an organization authorized by such a candidate to receive contributions or make expenditures on his behalf *for a campaign*.

[emphasis added]

Section 4202 includes, but is not limited to, the following definitions:

2. "Campaign" means and includes all activities for or against the election of a candidate to a specific state or local office for a specific term or the passage or defeat of a state question from the date of the first contribution, the making of the first expenditure, the filing of a declaration of candidacy or a public announcement of intent to seek such election, whichever is first;

* * *

10. "Family" means an individual, his or her spouse, if any, and all children under the age of eighteen (18) years residing in the same household;

17. "Person" means an individual, corporation, association, firm, partnership, labor union or labor organization, committee, club or other organization or a group of persons who are voluntarily acting in concert;

Since the trust is an organization, it would be limited to receiving a \$5,000 contribution per calendar year from its members. As an organization, the trust is also a person and may only contribute \$5,000 to a state candidate, or \$1,000 for a county candidate, for an entire campaign [from the first contribution or expenditure to the last].

The last question is, "How should candidates report receiving contributions from such a trust to comply with the Act?"

State candidates would be limited, pursuant to Section 4216 above, to receiving \$5,000 from the trust for their entire campaign for any office. Section 4211 (B) reads, in pertinent part:

Every candidate for state or county office and every political party and organization which receives a contribution which exceeds Two Hundred Dollars (\$200.00) in a campaign shall file a report with the Oklahoma Council on Campaign Compliance and Ethical Standards naming the source of each contribution which exceeds Two Hundred Dollars (\$200.00) and stating the amount of each contribution which exceeds Two Hundred Dollars (\$200.00).

Section 4214 reads, in pertinent part:

No fictitious names shall be used on the reports. The reports shall show the correct name of the person actually making the contribution.

State candidates receiving contributions from the trust should report the name of the trust as the "person" actually making the contribution. The fact that checks from the trust are signed by both the original contributor of the money to the trust and a trust representative does not affect the reporting obligation of the candidate. Since the trust is both an "organization" and a "person" under the Act, a check written on the account of the trust is a contribution from the trust and must be reported as such.

It is, therefore, the advisory opinion of the Council, as voted on at its regular meeting on August 13, 1990, that an "advisory trust", formed for the purpose of accepting donations and issuing checks to support candidates for political office [which require the co-signature of the donor/member], is an organization as defined in § 4202 (16) of the Oklahoma Campaign Compliance and Ethical Standards Act [Title 74 O.S. Supp. 1990, § 4200 et seq.] and, therefore, subject to the reporting requirements and contribution limits of the Act.

It is further the advisory opinion of the Council that the trust must register as an organization under the Act, is limited to \$5,000 annual contributions from its members, and is limited to \$5,000 contributions to state candidates for the length of their campaigns; and that state candidates receiving contributions from such a trust may not receive more than \$5,000 for the length of their campaigns and must report the name and address of the trust as the contributor.