

**ETHICS INTERPRETATION EI-1995-010
ISSUED JULY 13, 1995**

The Ethics Commission [the "Commission"], in regular meeting, addressed your request for an ethics interpretation. You have asked:

Is a statewide professional association protesting an initiative effort, which has received initiative petition and state question numbers, required to register and file contributions and expenditure reports with the Ethics Commission during the legal challenge to the matter before it is submitted to the voters for their approval or rejection?

FACTS

You have advised the Commission that the protestant is an established statewide professional association which has instituted proceedings in the Oklahoma Supreme Court challenging the constitutionality of an initiative/state question. A schedule was set, briefs have been filed and the matter is now at issue before the Court. The ruling, which has yet to be handed down, will determine whether the issue goes to a vote of the people.

ANALYSIS

The Constitutional Ethics Rules [Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 1994, Ch. 62, App., as amended] govern this question. These rules specify which individuals and entities are required to register and file reports with the Commission. With respect to the instant matter, the rules provide that a group become political action committee when it is:

... a combination of at least two individuals, or a person other than an individual:

- (A) with the *primary purpose* of:
 - (i) supporting or opposing a candidate or candidates, or a party committee, except those required to file with the Federal Election Commission, or
 - (ii) *supporting or opposing a ballot measure*; and
- (B) *which accepts or gives contributions or makes expenditures from a joint account aggregating at least five hundred dollars (\$500) during a calendar year.*

* * *

257:1-1-2

[emphasis added]

Since the instant organization is a combination of at least two individuals, the first question is whether the protestant has the primary purpose of supporting or opposing the initiative petition issue. As a statewide organization of many years' standing, the group obviously has a primary purpose or purposes apart from supporting or opposing

the instant issue. Were this analysis to be followed, it would defeat reporting by any pre-existing organization or group declaring its primary purpose to be other than supporting or opposing a candidate, party or ballot measure. The Commission therefore interprets primary purpose as one toward which the group has received or made in contributions or expended \$5,000 or more. The Commission finds that if the instant organization collects or spends \$5,000 or more towards this end, it will be deemed to have as a primary purpose supporting or opposing a candidate, candidates, a party committee or ballot measure within the meaning of the definition of political action committee.

In this case, an initiative petition has been filed with the Oklahoma Secretary of State. A state question number has been assigned. The protestant is thus opposing a ballot measure, which the rules define as:

"Ballot measure" means an initiative, referendum, legislative referendum, *state question*, or any proposition or measure submitted to voters for their approval or rejection at a statewide election.

257:1-1-2

[emphasis added]

Once such a group accepts or gives contributions or makes expenditures from a joint account aggregating more than five hundred dollars (\$500) during a calendar year, it not only meets the definition of a political action committee, it incurs the duty to register with the Commission within five (5) days.

Registration requirements

A committee other than a candidate committee, including an out-of-state committee, which accepts one or more contributions or makes one or more expenditures in excess of five hundred dollars (\$500) in the aggregate in this state in a calendar year shall file a statement of organization with the Commission no later than five (5) days after accepting the contribution(s) or making the expenditure(s)....

* * *

257:10-1-11(a)

Once having registered, the rules require such committees to file periodic reports of campaign contributions and expenditures. For ballot measures, these reports are filed monthly and are due by the 10th of the month.

Required reports of contributions and expenditures

(a) **Periodic reports by all committees.**

* * *

(3) The treasurer or, in the treasurer's absence, the deputy treasurer of each committee supporting or opposing a ballot measure, or supporting or opposing a candidate and a ballot measure, shall file monthly reports of contributions accepted and expenditures made no later than the tenth (10th) day of each

month and include all contributions and expenditures made the previous month. The first report filed by such a committee shall be the next report due following the filing of a statement of organization.

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257:10-1-13(a)(3)

During election cycles, these committees also file pre-election reports.

* * *

(b) Pre-election reports by all committees.

(1) A committee shall file a pre-election report for each primary, runoff primary and general election held pursuant to Sections 1-101, 1-102 and 1-103 of Title 26 of the Oklahoma Statutes and for any special election, including a special primary election, if any, for which a registered committee accepts a contribution or makes an expenditure in support of or in opposition to a candidate for office in that election cycle or a ballot measure on the ballot in that election.

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257:10-1-13(b)(1)

Pre-election reports are due as follows:

* * *

(2) A pre-election report shall be filed no later than eight (8) days and no earlier than fourteen (14) days before an election. The pre-election report shall include information for all transactions made since the end of the last reporting period through fifteen (15) days before the date of the election.

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257:10-1-10(b)(2)

CONCLUSION

It is, therefore, the ethics interpretation of the Ethics Commission, as voted on at its regular meeting held July 13, 1995, that a statewide organization protesting an initiative effort which has been filed with the Oklahoma Secretary Of State and has been assigned initiative and state question numbers is, under these facts, a combination of at least two individuals, or a person other than an individual, supporting or opposing a ballot measure. If and when such a group accepts or gives contributions or makes expenditures from a joint account aggregating at least five thousand dollars (\$5,000), such group will be deemed to have as a primary purpose supporting or opposing a candidate, candidates, party committee or ballot measures within the meaning of the definition of political action committee. When accepting or giving contributions or making expenditures in excess of five hundred dollars (\$500) during

a calendar year, the organization will incur the obligation to register and file contributions and expenditure reports with the Commission.

Please be advised that ethics interpretations by law will be published by this Commission without identifying petitioners.