

**INFORMAL OPINION IO-2001-002
ISSUED SEPTEMBER 25, 2001**

Because your question is reasonably susceptible to a single analysis by the clear language of the rule, we have converted your request for an ethics interpretation to one for informal opinion, as provided by the Constitutional Ethics Rules [Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. 2001, Ch. 62, App.]¹. You have asked:

Do the Constitutional Ethics Rules [“the Rules”], supra, prohibit MCI WorldCom’s Federal PAC [“FEDPAC”] from contributing to MCI WorldCom OKPAC [“OKPAC”], and OKPAC from accepting from FEDPAC, more than \$5,000 in a calendar year?

FACTS

You have advised:

- OKPAC is a non-candidate committee organized on March 31, 1999, pursuant to Oklahoma law for the purpose of supporting pro-competition candidates for public office. As such, OKPAC has filed its statement of organization and periodic campaign reports with this agency.
- Contributions to OKPAC come from MCI WorldCom, Inc. as well as persons in Oklahoma and elsewhere in the United States, who contribute via payroll deduction [for employees only] and/or by personal check. Employees are solicited for contributions either via separate Oklahoma solicitations or as a part of larger corporate solicitations. In the corporate-wide solicitations, employees have the choice to contribute to FEDPAC [registered with the Federal Election Commission] and/or any number of the eight state PACs, including OKPAC.
- Under consideration is a new program in which MCI WorldCom employees would be solicited only for FEDPAC and funds would be periodically transferred from FEDPAC to the several state PACs, including OKPAC. This proposed new form of solicitation would involve the same base of MCI WorldCom employees as the former procedures. The federal PAC and OKPAC are both associated with MCI WorldCom Inc.

In response to our additional inquiry, you have advised:

- FEDPAC and OKPAC do not share the majority of members on their boards of directors.

¹Rules’ Section 257:1-1-6(g) provides:

...The executive director or the general counsel may issue informal written opinions, as time permits and with the prior approval of the chair or vice chair, pertaining to the provisions of this title on questions that are susceptible to a single analysis by the clear language of the rule and are not the subject of litigation, investigation or legislation.

- Although some employees contribute to both PACs, the two PAC's are not "owned or controlled" by the same majority members or shareholders.
- Although the current plan is for certain funds to be transferred from the much larger FEDPAC to the much smaller OKPAC, there is no formal "parent-subsidary relationship between the two PACs.
- There are no by-laws which state that a parent-subsidary relationship exists between the two PACs.
- Neither FEDPAC nor OKPAC "directly or indirectly establishes, administers or financially supports a political entity" except to the extent that contributions are made to candidates fro public office.

ANALYSIS

An excerpt to the definition of contribution in the Rules exempts for purposes of the contribution limits, a PAC making a transfer to its affiliated or connected PAC provided the committees are established by law and are financially supported by a common entity.

Definitions

* * *

"Contribution"

(1) means and includes:

* * *

(2) The term "contribution" shall not include:

(A) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or committee;

(B) for purposes of the contribution limits set forth in Section 2 of Chapter 10, the transfer of any funds by a political action committee to an affiliated or connected political action committee or by a party committee to an affiliated or connected party committee, provided the committees have been established as provided by law and the transferring committee and the receiving committee have been established, directly or indirectly, and are administered or financially supported, directly or indirectly, by a common entity; or...

A person includes a committee.

"Person" means an individual, corporation, limited liability company, association, proprietorship, firm, partnership, limited liability partnership, limited partnership, joint venture, joint stock company, syndicate, business trust, estate, trust, company,

organization, committee, or club, or a group of persons who are voluntarily acting in concert.

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257:10-1-2

A committee is defined to include a political action committee ["PAC"].

"**Committee**" means a candidate committee, political action committee, or party committee.

* * *

257:10-1-2

The Rules prohibit any person from contributing more than \$5,000 to a PAC in a calendar year.

Contributions

(a) **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.

(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.

* * *

Section 257:10-1-2(a)

Two PACs or party committees are treated as a single entity if certain conditions exist.

(g) **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-subsidary relationship; or
- (D) have by-laws so stating; or
- (E) are affiliated or connected entities.

257:10-1-2(g)

Your responses indicate that FEDPAC and OKPAC are not subject to treatment as a single entity, nor do that fit within any of the exceptions to the contribution limits.

CONCLUSION

It is therefore the informal opinion of the Ethics Commission staff that nothing in the Rules exempts a federal PAC from contributing to a state PAC more than the \$5,000 limit when the two PACs do not share the majority of members on their boards of directors; are not “owned or controlled” by the same majority members or shareholders; are not in a parent-subsidary relationship; have not by-laws stating a “parent-subsidary relationship” exists; and have not directly or indirectly established, administered or financially supported a political entity” except to the extent that contributions are made by both to candidates for public office.

Like ethics interpretations, informal staff opinions are fact specific. They answer only the question or questions put forth in the underlying request according to information described in the “Facts” section [*supra*]. While they may shed light on other situations, this opinion does not necessarily control them.

The Rules permit the Commission staff to issue informal opinions, upon the approval of the Chair or Vice Chair, provided the matter is reasonably susceptible to a single analysis and is not the subject of litigation, investigation or legislation. We hope these informal letters shed light on the issues and provide guidance. They are not, however, official pronouncements.

This opinion letter has been approved by the Commission Chairman. According to policy, this opinion will be submitted to the members, any of whom can request that the matter be converted to an ethics interpretation and considered by the full Commission.

Informal opinions are published with sufficient deletions to prevent identification of the person or persons involved in the situations herein described. The name of the requestor is considered confidential. This letter has been labeled accordingly.