

**INFORMAL OPINION IO-2010-003  
ISSUED SEPTEMBER 29, 2010**

You have asked the staff of the Ethics Commission the following:

*Do the Constitutional Ethics Rules place any restrictions on the federal maximum donation of \$10,000 to a “Levin Fund” and/or require aggregation of that contribution with those to a state party committee? What is the maximum amount a non-corporate donor may give a state party committee when taking into consideration his or her Levin account contribution?*

We believe your questions are reasonably susceptible to a single analysis by the clear language of the Constitutional Ethics Rules [“ the Rules” ], Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 2010, Ch. 62, App. To our knowledge, the matter is not the subject of litigation, investigation or legislation. Staff has therefore responded by informal opinion.<sup>1</sup>

**FACTS**

You have advised that you serve as Treasurer of a state political party [“ the state party” ]. Questions have arisen as to how contribution limits set out in the Rules interplay with your Levin Fund. You specifically ask whether the Rules place restrictions on the Levin Fund’s \$10,000 limit and/or require aggregation with those given a state party committee. In order to illustrate the answer, you request staff to calculate the limit a non-corporate donor may give a state party when he or she has made a maximum Levin Fund contribution.

**ANALYSIS**

It is axiomatic that federal law governs federal political campaigns, just as state law governs those within the state. Levin Funds are provided for in laws governing the former. The Oklahoma

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<sup>1</sup>According to Rules’ Section 257:1-1-6(h),

...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.

Ethics Commission has no authority over that provision and can not increase the \$10,000 limit. It may, however, decrease the amount or make it the same as –or aggregate it with – the state contribution limit.

The Rules expressly recognize Levin Funds. This is found in Section 257:10-1-2(a)(1). It reads:

**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. **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.**

\* \* \*

Section 257: 10-1-2

[emphasis added]

As the Rule provides, Levin Fund contributions do not have to be aggregated with those to a state party committee. During a calendar year, a non-corporate Oklahoma contributor could make a \$10,000 contribution to your Levin Fund, while also giving the state party a maximum \$5,000 contribution.

Staff’s informal opinion is that, the Rules place no restrictions on the federal maximum donation of \$10,000 to a Levin Fund, nor do they require aggregation with contributions to a state party committee. As the Rule sets forth, the latter are set at \$5,000 per calendar year.

Under your scenario, a non-corporate Oklahoma contributor could make a \$10,000 contribution to the state party’s Levin Fund, while also giving the state party a maximum \$5,000 contribution per calendar year.

**CONCLUSION**

**It is therefore the informal opinion of the staff of the Ethics Commission that Section 257:10-1-2(a)(1) does not restrict the federal maximum donation of \$10,000 to a Levin Fund, nor does it require aggregation of Levin Fund contributions with those given to a state party committee. This same provision sets the latter at \$5,000 per calendar year. A non-corporate Oklahoma contributor could, hence, make a \$10,000 contribution to the state party’s Levin Fund, while also giving the state party a maximum \$5,000 contribution during a calendar year.**

Informal opinions are written by the staff of the Ethics Commission. They are hence not an official pronouncement of the agency.

Like ethics interpretations, informal staff opinions are fact specific. They answer only the question or questions put forth in the underlying request 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 an informal opinion, 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. This opinion letter has been approved by the Commission Chair. According to policy, it 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.

We trust this answers your questions. Please advise if we may be of further assistance.

Rebecca Adams, General Counsel  
Oklahoma Ethics Commission