



## Ohio Elections Commission

21 West Broad Street, Suite 600  
Columbus, Ohio 43215  
614•466•3205

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Chairman

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Vice-Chairman

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### OHIO ELECTIONS COMMISSION

#### Advisory Opinion

98ELC-05

**SYLLABUS:** A corporation may not encourage contributions to its Ohio Political Action Committee (PAC) by matching all or a portion of a contributor's gift to the PAC with a donation to a charity of the contributor's choice.

**TO:** Loran D. Maloney  
Associate General Counsel  
Anheuser-Busch Companies

You are requesting an advisory opinion on the following question:

May a corporation encourage contributions to its Ohio Political Action Committee (PAC) by matching all or a portion of a contributor's gift to the PAC with a donation to a charity of the contributor's choice?

Pursuant to Ohio Revised Code §3517.082(A), a corporation (or a nonprofit corporation or labor organization) "may establish, administer, and solicit contributions ... to either or both of the following:

- (1) A political action committee for the corporation or labor organization with respect to state and local elections; (or)
- (2) A separate segregated fund pursuant to the Federal Elections Campaign Act (FECA)."

While your company has operated a separate segregated fund pursuant to the FECA (hereinafter, the Federal PAC), you have now established an Ohio PAC pursuant to R.C. §3517.082(A)(1), and would like to conduct similar solicitation campaigns for state and local elections to that which you have been able to conduct for the Federal PAC.

As you indicate in your letter of request, the Federal Elections Commission (FEC) has issued a number of advisory opinions on this topic. These opinions essentially state that such activities are an appropriate solicitation expense and

would not constitute an otherwise prohibited corporate contribution. The basis for these opinions is that there is no fundamental benefit that is received by the employee and that the corporation will not be exchanging treasury monies for voluntary contributions. That is, there will be no quid pro quo present in this transaction.

Shortly after the first opinion was issued on this subject by the FEC, Federal Elections Commission Advisory Opinion 1986-44, the office of the Secretary of State responded to this opinion by adopting Ohio Administrative Code §111-4-07(B), which states that "(a) corporation or labor organization may not pay for a thing of value, such as a prize or gift, in exchange for a contribution to its Ohio PAC." The Secretary of State sought to differentiate Ohio from the federal scheme in this area, even though the statutory framework between federal and Ohio statutory provisions is comparable.

This Commission believes that the position taken by the Secretary of State at that time is still germane today. Giving due respect to the FEC and its sequence of advisory opinions on this topic, this Commission believes that Ohio must distinguish its position from that of the FEC. While the FEC believes that this type of activity fits easily within the framework of solicitation expenses, this Commission believes that there is a great potential for abuse and that limits must be placed on this type of activity. While not strictly trading corporate monies for political contributions, this type of activity is an indirect means of giving a contributor a personal benefit, by furthering the mission of a charitable organization in which the contributor is interested, in exchange for a PAC contribution. It is the Commission's belief that this type of activity fits readily within the language of O.A.C. §111-4-07(B), and so is prohibited by that language.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that a corporation may not encourage contributions to its Ohio Political Action Committee (PAC) by matching all or a portion of a contributor's gift to the PAC with a donation to a charity of the contributor's choice.

Sincerely,



Alphonse P. Cincione  
Chairman