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August 6, 2013

Holly LaBerge, Executive Secretary
Georgia Government Transparency and
Campaign Finance Commission
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Re: Formal Request for an Advisory Opinion

Dear Ms. LaBerge:

This correspondence represents a formal request to the Georgia Government Transparency and Campaign Finance Commission (the "Commission" or "GGTCFC") for the issuance of an advisory opinion in accordance with the provisions of O.C.G.A. § 21-5-6(b)(13). This request is written on behalf of a corporate political action committee (PAC), which is registered with the Commission as a Georgia non-candidate committee.

As mandated by the Georgia Government Transparency and Campaign Finance Act (the "Act") and its associated rules, corporate PACs making aggregate contributions and expenditures to or on behalf of candidates of more than $25,000 per year are required to register with the Commission in the same manner as campaign committees. *See* O.C.G.A. § 21-5-34(e). Corporate PACs required to register with the Commission pursuant to this statutory provision are likewise required to file campaign contribution disclosure reports ("CCDRs") with the GGTCFC at the same times as required of candidates. The specifics of submitting such CCDRs are set forth, to a certain degree, in the Act and its associated rules. In the corporate PAC reporting context, however, CCDR disclosure standards are ambiguous and inadvertently lead to discrepancies between the "net balance on hand" amounts disclosed to the public via CCDR reports and the actual amount of funds contained in a corporate PAC's physical bank account. This is particularly true in the case of corporate PACs that do not consistently cross the $25,000 annual registration threshold.

It is with these ambiguities and discrepancies in mind that we now seek guidance from the Commission concerning the application of the present CCDR disclosure standards (as announced in the Act and GGTCFC rules) to corporate PACs registered as GA non-candidate

committees. Specifically, we seek advice from the Commission on a range of reporting issues that inherently lead to CCDR "net balance on hand" disclosure discrepancies, including the following topics: the proper treatment of "net balance on hand" carry forward from year to year; the proper treatment of corporate PAC contributions to state and local candidates from jurisdictions outside of Georgia; the proper treatment of corporate PAC administrative fees, such as check printing costs and other bank levies; the proper treatment of voided contribution checks; and the proper treatment of full or partial refunds of contributions. In turn, we hereby submit the following formal questions for Commission consideration and response.

Questions Presented

1. Given the fact that a corporate PAC is subject to a yearly "election cycle" and need not register with the Commission as a Georgia non-candidate committee in years it does not meet the contribution and expenditure threshold under the Act, should the "total contributions previously reported" line item it reports on its first CCDR at the beginning of each new registration year reflect a zero balance or should this line item reflect the "net balance on hand" carry forward from the last periodic CCDR the PAC submitted in the last year it was registered with the Commission?

2. If the appropriate amount to disclose in Question 1 is the "net balance on hand" carry forward amount from the last applicable CCDR filed with the Commission, how should a corporate PAC registered as a Georgia non-candidate committee rectify (if at all) the discrepancy that will be created between the "net balance on hand" amount disclosed to the public on its CCDRs and the actual amount of funds contained in its physical bank account due to expenditures made or contributions received in the interim years in which the PAC was not required to register under the Act?

3. Is a corporate PAC registered with the Commission as a Georgia non-candidate committee required under the Act and its associated rules to disclose contributions the PAC makes to out-of-state candidates or committees as "expenditures made" on its periodic CCDRs?

4. Is a corporate PAC registered with the Commission as a Georgia non-candidate committee required under the Act and its associated rules to disclose small administrative expenses (less than $100) it pays for check printing and bank fees on the "expenditures made" section of its periodic CCDRs?

5. Is a corporate PAC registered with the Commission as a Georgia non-candidate committee required under the Act and its associated rules to disclose the voiding of contribution checks made to Georgia candidates or committees in previous reporting periods on its periodic CCDRs? If so, should the disclosure be made on the CCDR corresponding with the timing of the voiding or should the disclosure be made as an

amendment to the CCDR corresponding with the original contribution at issue (if such a CCDR exists)?

6. Is a corporate PAC registered with the Commission as a Georgia non-candidate committee required under the Act and its associated rules to disclose the full or partial refund of contribution checks made to Georgia candidates or committees in previous reporting periods on its periodic CCDRs? If so, should the disclosure be made on the CCDR corresponding with the timing of the refund or should the disclosure be made as an amendment to the CCDR corresponding with the original contribution at issue (if such a CCDR exists)?

7. If the GGTCFC determines that any of the items discussed in Questions 3 through 6 above are not required to be disclosed on the periodic CCDRs of a corporate PAC registered with the Commission as a Georgia non-candidate committee, how should such a PAC rectify (if at all) the discrepancy that will be created between the "net balance on hand" amount disclosed to the public on the PAC's CCDRs and the actual amount of funds contained in the corporate PAC's physical bank account due to non-disclosure of such items?

Analysis

While O.C.G.A. § 21-5-34(b)(1)-(2) and GGTCFC Rules 189-3-.01 *et seq.* provide some degree of guidance regarding the preparation of CCDRs in the campaign committee context, it is our opinion that these provisions nevertheless fail to set forth a clear disclosure framework for corporate PACs registered as Georgia non-candidate committees and therefore fall short of addressing the specific issues raised in the questions above. As such, based upon the analysis presented herein, we propose that the Commission reach the following conclusions with respect to the aforementioned inquiries. First, we contend that it is not required for a corporate PAC to carry forward the "net balance on hand" amount from its last-filed CCDR with the Commission and reflect that amount as the "total contributions previously reported" line item on its first-filed CCDR in a given registration year. Second, we assert that a corporate PAC registered as a Georgia non-candidate committee under the Act is not required to disclose out-of-state contributions, small administrative expenditures, the voiding of contribution checks, and full or partial contribution refunds on its periodic CCDRs. Finally, based upon the language of the Act and its associated rules, it is our opinion that corporate PACs registered as Georgia non-candidate committees have no affirmative obligation to correct the discrepancies between the "net balance on hand" amount disclosed in their CCDRs and the actual amount of funds contained in their physical bank accounts when such discrepancies result from non-disclosure of items not required to be reported on CCDRs filed with the Commission.

"Total Contributions Previously Reported" Line Item on Corporate PAC CCDRs

As stated above, this letter requests an advisory opinion from the Commission confirming that corporate PACs registered with the GGTCFC as non-candidate committees need not carry forward the "net balance on hand" amount reported on their last-filed CCDR with the Commission and reflect that amount as the "total contributions previously reported" line item on their first-filed CCDR in a given registration year. The basis for this supposition is two-fold. First, it is our contention that the language of the Act and its associated rules do not compel such a carry forward standard for corporate PACs. Second, it is our contention that the application of this campaign committee carry forward standard leads to the inaccurate disclosure of "net balance on hand" amounts on the CCDRs of corporate PACs, and should therefore be inapplicable in the non-candidate committee context.

As to our first contention, it is clear from the language of the Act that *campaign* committees are required to disclose their "total contributions received" and "total expenditures" made for an election cycle as set forth in O.C.G.A. § 21-5-34(b)(1)(D). Under subsection (i) of this statutory provision, it is also apparent that a *campaign* committee is required to "list the cash on hand brought forward from the previous election cycle, if any" on the first CCDR it submits to the Commission in an election cycle. The Act itself and its associated rules do not provide any additional detail as to how this should be accomplished, nor do they expressly speak to disclosure by corporate PACs or other non-candidate committees. In spite of the silence of the Act and GGTCFC rules on the issue, the applicable CCDR filing instructions provided on the Commission's online system advise *campaign* committees to report the "net balance on hand" amount reflected in the last-filed CCDR of the previous election cycle as the "total contributions previously reported" line item on the first-filed CCDR of the new election cycle. These instructions do not, however, speak to the "net balance on hand" carry forward issue in the corporate PAC context. Nor do they obligate non-candidate committees of any type to apply the same carry forward standard.

In light of these facts, there appears to be no basis in either statute, rule or GGTCFC instruction for the Commission to mandate that corporate PACs follow the "net balance on hand" rollover standard applied to campaign committees. Likewise, there appears to be no evidence in Commission advisory opinions, enforcement history[1], or commentary to suggest that the campaign committee carry forward standard is applicable to corporate PACs. As such, we believe there is no basis in state law to suggest that a corporate PAC registered with the Commission as a non-candidate committee needs to rollover its past "net balance on hand"

[1] Our review of Commission enforcement and compliance filings revealed no indication that the Commission has ever taken issue with the decision of a corporate PAC to refrain from following the "net balance on hand" carry forward standard applied to campaign committees. In addition, a thorough survey of CCDRs filed by corporate PACs currently registered with the Commission revealed that a large number of such PACs do not follow the campaign committee carry forward standard when filing the first state disclosure of a new election cycle.

amount from the CCDR filed at the end of its last registered election cycle to the first CCDR submitted in the current registration year.

In as much as there appears to be no statutory or regulatory basis for the application of the "net balance on hand" rollover standard to the CCDRs of a corporate PAC, there likewise appears to be no logical public policy basis. In the campaign committee context, the "net balance on hand" carry forward standard ensures that state and local candidates and candidate committees provide the public with an accurate and straightforward accounting of their cash on hand when moving from one election cycle to the next. In the corporate PAC context, however, application of the campaign committee rollover standard leads to an inherently inaccurate accounting of PAC finances.

The inherent inaccuracies in disclosure triggered by the application of the campaign committee "net balance on hand" rollover standard to corporate PACs is a natural result of the registration and reporting requirements contained in the Act. As set forth in O.C.G.A. § 21-5-34(e), a corporate PAC need only register as a non-candidate committee with the Commission and file periodic CCDRs if it makes aggregate contributions and expenditures to or on behalf of candidates of more than $25,000 per year. As a result of this statutory provision, it is extremely common for corporate PACs to qualify, register and report as non-candidate committees one year and fall short of qualification, registration and reporting the next. In turn, it is extremely common for corporate PACs to have permissible, multi-year gaps in public reporting due to years when they failed to cross the requisite registration threshold.

In light of common reporting gaps such as these, it is wholly illogical from a public policy standpoint for the Commission to apply the campaign committee "net balance on hand" rollover standard to the CCDRs of registered corporate PACs. To do so creates a scenario by which accurate cash on hand information is reflected for some corporate PACs but not for others. Accurate data results only when the rollover is applied in consecutive calendar years – for example, when a PAC registering in 2013 on the heels of a 2012 registration rolls over the "net balance on hand" amount reflected on its 2012 year-end CCDR and reports it as the "total contributions previously reported" amount on its first 2013 CCDR. Inaccuracies are sure to result, however, when a corporate PAC follows the campaign rollover standard after a hiatus from state registration and reporting. For instance, if a corporate PAC registering in 2013 is reporting as a non-candidate committee for the first time in five years, carrying forward its last "net balance on hand" amount from the end of 2008 and reporting that balance as its initial "total contributions previously reported" for 2013 ignores all PAC activity between 2009 and 2012. In turn, assuming that expenditures were made or contributions received during that four-year period, this leads to the disclosure of inaccurate data through the PAC's 2013 CCDR.

Due to the reporting inaccuracies caused by the application of the campaign committee "net balance on hand" rollover standard to corporate PAC CCDRs, we believe that there is no compelling public policy justification for supporting its use in the PAC context. The purpose of

the Act's disclosure requirements is to ensure that the public has open access to accurate information concerning the contributions and expenditures of candidates and committees affecting the Georgia political process. The public gains nothing, however, if the data it receives concerning one PAC means one thing and the information it gains regarding another PAC means another. This is precisely the effect of the campaign committee rollover standard in the corporate PAC context. As such, the Commission should avoid the standard's application to corporate PACs, and instead adopt a reporting approach that makes sense in light of the non-candidate committee registration and reporting requirements facing Georgia corporate PACs.

Based on those requirements and the yearly election cycle applicable to PACs under the Act, we submit that the Commission should not endorse the "net balance on hand" rollover standard for corporate PAC non-candidate committees. Rather, the GGTCFC should permit corporate PACs registering as non-candidate committees to reflect a zero balance on the "total contributions previously reported" line item of their initial CCDRs in an election cycle. Under this framework, subsequent CCDRs within the same election cycle would obviously aggregate contributions received during the registration and reporting year, but there would be no rollover of "net balance on hand" amounts from outdated CCDRs filed in previous election cycles. By adopting this approach, the Commission would be treating all corporate PACs in the same manner and ensuring that the public has access to accurate information regarding the financial status of such PACs in the given election cycle. Likewise, the Commission would be adopting a sensible disclosure standard in light of the language and public policy aims of the Act.[2]

In sum, we believe there is ample legal and public policy support for a decision from the Commission confirming that corporate PACs registered with the GGTCFC as non-candidate committees need not carry forward the "net balance on hand" amount using the same election cycle rollover standard required of campaign committees. Despite this supposition, we nevertheless request that the Commission provide advice at its earliest convenience concerning whether the described campaign committee rollover standard is required for corporate PACs filing as non-candidate committees under Georgia law.[3]

[2] As highlighted at length in this subsection of our analysis, application of the "net balance on hand" rollover standard to CCDRs only makes sense from a public policy perspective in scenarios where a committee (such as a campaign committee) is required to continuously register and report to the Commission. If the Act required a corporate PAC to continuously register and report as a non-candidate committee with the GGTCFC, then use of the standard might qualify as a sensible disclosure approach. However, since corporate PACs do not face such obligations under the Act, there is no compelling reason for the Commission to mandate that they use the "net balance on hand" rollover standard in periodic CCDR filings.

[3] Should the GGTCFC determine that the campaign committee "net balance on hand" rollover standard is applicable to corporate PAC disclosures under state law, we likewise request that the Commission provide advice on how such PACs should rectify (if at all) the discrepancies that will be created between the "net balance on hand" amounts disclosed in their public CCDRs and the actual amount of funds contained in their physical bank accounts due to expenditures made or contributions received in the interim years when they were not required to register under the

Out-of-State Contributions

As stated above, this letter also requests an advisory opinion from the Commission confirming that corporate PACs registered with the GGTCFC as non-candidate committees need not disclose contributions made to non-Georgia candidates and political committees as "expenditures made" on their CCDRs. The language of the Act clearly appears to support such an interpretation. According to O.C.G.A. §§ 21-5-34(b)(1)(B) and 21-5-34(b)(1)(D), CCDRs must include the total of all "expenditures" made by a campaign committee during a given reporting period and likewise must itemize any expenditure of more than $100 made by the committee. It is presumed, although not expressly specified in statute or rule, that the same standards also apply to non-candidate committees. For the purposes of the analysis below, we will accept this particular presumption.

For the purposes of the CCDR disclosure standard and the Act as a whole, the term "expenditure" is defined to mean "a purchase, payment, distribution, loan, advance, deposit, or any transfer of money or anything of value made for the purpose of influencing the nomination for election or election of any person ... which is to appear on the ballot in this state or in a county or a municipal election in this state." [Emphasis added]. *See* O.C.G.A. § 21-5-3(12). The clear language of this statutory section indicates that the contribution of money to candidates for public office in other states or political committees operating in jurisdictions other than Georgia does not qualify as an "expenditure" under the Act. This basic principle is also supported by the fact that the authority of the Commission to require CCDR disclosure is limited to the scope of the Act itself, which addresses only Georgia state and local elections, candidates, committees, and officeholders. As such, even if the Commission wished to compel the disclosure of out-of-state contributions, the Act appears to grant no such authority to the GGTCFC.

In light of the apparent exemption of out-of-state contributions from the definition of "expenditure" under the Act and the fact that the Commission has no express authority to regulate the disclosure of out-of-state political contributions, there appears to be ample support for the notion that registered corporate PACs need not disclose non-Georgia contributions as "expenditures made" on their periodic CCDRs. Despite this fact, we nevertheless request that the Commission provide advice at its earliest convenience concerning whether the disclosure of such out-of-state expenditures on the CCDRs of corporate PACs is required under Georgia law.

If the GGTCFC determines that the disclosure of out-of-state contributions as "expenditures made" is not required under state law, we likewise request that the Commission provide advice on whether a corporate PAC making such contributions need be concerned about

Act. The existence of such discrepancies is obviously one of our prime arguments against the application of the rollover standard in the corporate PAC context, but if the Commission is not persuaded by our arguments we would appreciate guidance on how a corporate PAC should ensure accurate disclosure in such settings.

the reporting discrepancy created by non-disclosure. Namely, if a corporate PAC is not required to disclose its out-of-state contributions, need it be concerned that choosing not to report such expenditures on its CCDRs will lead to a discrepancy between the "net balance on hand" amount it reports to the public and the actual amount of funds contained in the corporate PAC's physical bank account? It is our contention that such discrepancies are a natural byproduct of the existing disclosure framework put in place by the Act and thus do not constitute a violation of state law. The Commission has never spoken to this precise issue, however, and thus we request that the GGTCFC consider whether the Act mandates that such discrepancies be remedied by corporate PACs.

Corporate PAC Administrative Inputs & Outputs

As stated above, this letter also requests an advisory opinion from the Commission confirming that corporate PACs registered with the GGTCFC as non-candidate committees need not disclose on CCDRs certain administrative inputs and outputs, including bank administrative fees or levies, voided contribution checks made during previous reporting periods, and full or partial campaign contribution refunds. Upon review, the language of the Act appears to support such an interpretation of state disclosure standards.

According to O.C.G.A. §§ 21-5-34(b)(1)(B) and 21-5-34(b)(1)(D), CCDRs must include the total of all "expenditures" made by a campaign committee during a given reporting period and likewise must itemize any expenditure of more than $100 made by the committee. Likewise, as set forth in O.C.G.A. §§ 21-5-34 (b)(1)(A) and 21-5-34(b)(1)(D), CCDRs are required to disclose the total of all "contributions" received by a campaign committee during a given reporting period and also must itemize any contributions of more than $100 received by the committee. The Act and its associated rules also mandate the disclosure of all "loans" received and "investments" made by a campaign committee during a given reporting period. *See* O.C.G.A. §§ 21-5-34(b)(1)(C) and 21-5-34(b)(1)(F). As mentioned previously, it is presumed, although not expressly specified in statute or rule, that these same standards for disclosure also apply to non-candidate committees. For the purposes of the analysis below, we will again accept this particular presumption.

When applying the above CCDR reporting standards to a corporate PAC registered as a Georgia non-candidate committee, it is not at all clear whether certain types of administrative outputs or inputs associated with the PAC require disclosure. This is because such monetary outputs and inputs do not meet the precise definitions for "contributions", "expenditures", "loans" and "investments" that are required to be reported by campaign committees (and presumably corporate PACs) under the Act. The specific case against disclosure of the aforementioned administrative inputs and outputs is discussed in greater detail below. It is our contention, however, that the Act and its associated rules provide no basis for mandating that corporate PACs disclose monetary inputs and outputs that are administrative in nature and do not fit within the contours of either O.C.G.A. § 21-5-34(b)(1)-(2) or GGTCFC Rule 189-3-.01.

Bank Administrative Fees

The first type of corporate PAC administrative input/output we seek disclosure guidance on from the Commission is the payment of small financial institution fees for check printing costs and other similar bank levies. Under the CCDR reporting standards set forth in the Act, it does not appear that bank administrative fees fit within the definition of any of the required disclosure items for a non-candidate committee. Bank fees certainly do not qualify as "contributions" or "loans" received, or "investments" made, by a corporate PAC. As such, the only potential statutory provisions mandating bank fee disclosure would be those associated with the reporting of "expenditures" made by a non-candidate committee. The statutory definition of "expenditure" for the purposes of the Act, however, does not appear to encompass administrative bank fees.

As stated above, an "expenditure" is defined to mean anything of value "made for the purpose of influencing the nomination for election or election of any person, bringing about ... or opposing the recall of a public officer [,] ... or the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot. . . ." O.C.G.A. § 21-5-3(12). A bank fee paid by a corporate PAC for check printing or account maintenance costs would by no means appear to square with this statutory definition. Likewise, there does not appear to be any administrative history or past Advisory Opinions from the Commission suggesting that it has sought to enforce the disclosure of such bank fees on the CCDRs of corporate PACs.

In light of these facts, there seems to be ample support for the notion that registered corporate PACs need not disclose small administrative bank fees as "expenditures made" on their periodic CCDRs. Despite this supposition, we nevertheless request that the Commission provide advice at its earliest convenience concerning whether the disclosure of administrative bank fees on the CCDRs of corporate PACs is required under Georgia law. If the GGTCFC determines that the disclosure of administrative bank fees as "expenditures made" is not required under state law, we likewise request that the Commission provide advice on whether a corporate PAC making such expenditures need be concerned about the reporting discrepancy created by non-disclosure. Namely, if a corporate PAC is not required to disclose its administrative bank fees, need it be concerned that choosing not to report such expenditures on its CCDRs will lead to a discrepancy between the "net balance on hand" amount it reports to the public and the actual amount of funds contained in the corporate PAC's physical bank account? It is our contention that such discrepancies are a natural byproduct of the existing disclosure framework put in place by the Act and thus do not constitute a violation of state law. The Commission has never spoken to this precise issue, however, and thus we request that the GGTCFC consider whether the Act mandates that such discrepancies be rectified by corporate PACs.

Voiding of Written Contribution Checks

Under the CCDR reporting standards discussed above for corporate PACs, it also does not appear to be the case that the voiding of contribution checks given by a PAC during previous reporting periods need be reported under state law. This is because the voiding of a campaign contribution check is by its very nature a non-event for a corporate PAC. It is not a "contribution" or "loan" received by the PAC, nor is it an "investment" or "expenditure" made by the PAC during the reporting cycle. It is merely the cancellation of a contemplated, but not executed, contribution or expenditure. As such, neither the Act nor its associated rules would appear to supply any basis for the disclosure of the voidance of a check on a periodic CCDR. Despite this assumption, we nevertheless request that the Commission provide advice at its earliest convenience concerning whether the voiding of checks is required to be reported on the CCDRs of corporate PACs under Georgia law.

If the GGTCFC determines that the voiding of checks is a required disclosure for corporate PAC CCDRs, we likewise request that the Commission provide guidance on how the voidance should be reported. In particular, we seek advice on how to report the voiding of a contribution check that was disclosed on a previous CCDR and advice on how to report the voiding of a check that was never disclosed because it was initially written in a reporting period when a corporate PAC did not qualify for registration under the Act. On the other hand, should the Commission determine that the voiding of checks is not a required disclosure for corporate PAC CCDRs, we request that the GGTCFC provide advice on whether a corporate PAC need be concerned about the reporting discrepancy created by such non-disclosure. Namely, if a corporate PAC is not required to disclose the voiding of a contribution check, need it be concerned that choosing not to report such an expenditure on its CCDR will lead to a discrepancy between the "net balance on hand" amount it reports to the public and the actual amount of funds contained in the corporate PAC's physical bank account? It is our contention that such a discrepancy would be a natural byproduct of the existing disclosure framework put in place by the Act and thus would not constitute a violation of state law. The Commission has never spoken to this precise issue, however, and thus we request that the GGTCFC consider whether the Act mandates that such a discrepancy be rectified by corporate PACs.

Full or Partial Refunds of Contributions

Under the CCDR reporting standards discussed above for corporate PACs, it is also not at all clear whether state law compels such PACs to disclose the full or partial refund of contribution checks they originally gave during previous reporting periods. While it is certainly the case that a corporate PAC's contributions to candidates and committees need to be reported on its CCDRs if the PAC qualifies for registration and reporting as a non-candidate committee under the Act, it is not at all apparent that such a PAC is required to disclose the full or partial refund of such contributions from the candidate who received the original check. On its face, the full or partial refund of a contribution check is certainly not an "investment" made or "loan"

received by a corporate PAC. It is less clear, however, whether the returned funds might potentially qualify for CCDR disclosure as either a "contribution" received or negative "expenditure" made by the PAC.

From our perspective, the definition of "contribution" under the Act and its associated rules does not appear to encompass a full or partial refund of a campaign donation made by a corporate PAC. While a contribution refund is certainly a thing of value returned to the corporate PAC that made the original campaign donation, the reimbursement itself would not seem to be given "for the purpose of influencing the nomination ... or election of any person", or for any of the other stated purposes in O.C.G.A. § 21-5-3(7). As such, there seems to be little statutory basis for asserting that the refund needs to be disclosed on a corporate PAC's CCDR as a "contribution" received.

Along the same lines, the definition of "expenditure" under the Act does not appear to apply to a full or partial refund of a campaign donation made by a corporate PAC. While the original donation itself was certainly an "expenditure" in the sense that it was a thing of value given by the PAC to a candidate or committee for the purpose of influencing an election, the reimbursement of the donation is no more than an administrative return of funds to the PAC. The refund is not given for any of the stated purposes set forth in O.C.G.A. § 21-5-3(12), and as such, cannot reasonably be characterized as an "expenditure" made that needs to be disclosed on a corporate PAC's CCDR. Moreover, the definition of "expenditure" under the Act does not contemplate the *receipt* of funds by a committee or the concept of a "negative expenditure" by a corporate PAC. As such, it would be a stretch of statutory construction to assert that a contribution refund fits the mold of an "expenditure" under state law.

In light of these facts, there appears to be little statutory support for the notion that contributions refunded to corporate PACs are required to be disclosed as either "contributions received" or "expenditures made" on their periodic CCDRs. Despite this assumption, we nevertheless request that the Commission provide advice at its earliest convenience concerning whether Georgia law compels corporate PACs to disclose on CCDRs the full or partial refund of contributions they made in previous reporting periods.

If the GGTCFC determines that refunded contributions are a required disclosure for corporate PAC CCDRs, we likewise request that the Commission provide guidance on how the refunds should be reported. In particular, we seek advice on how to disclose the full or partial refund of a contribution check that was reported on a previous CCDR, and the full or partial refund of a check that was never disclosed because it was initially written in a reporting period when a corporate PAC did not qualify for registration under the Act. On the other hand, should the Commission determine that the contribution refunds are not a required disclosure for corporate PAC CCDRs, we request that the GGTCFC provide advice on whether a corporate PAC need be concerned about the reporting discrepancy created by such non-disclosure. Namely, if a corporate PAC is not required to disclose the refund of a contribution check, need it

be concerned that choosing not to report such a refund on its CCDR will lead to a discrepancy between the "net balance on hand" amount it reports to the public and the actual amount of funds contained in the corporate PAC's physical bank account? It is our contention that such a discrepancy would be a natural byproduct of the existing disclosure framework put in place by the Act and thus would not constitute a violation of state law. The Commission has never spoken to this precise issue, however, and thus we request that the GGTCFC consider whether the Act mandates that such a discrepancy be rectified by corporate PACs for the sake of public disclosure.

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Thank you in advance for your time and thoughtful consideration of the inquiries presented in this formal advisory opinion request. Should you have any follow-up questions or concerns, please do not hesitate to contact either of us.

Very truly yours,

Stefan C. Passantino
Benjamin P. Keane

SCP/BPK