

Questions Presented – No. 2013-03

1. Given the fact that a corporate political action committee 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 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 period 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 period or 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, show 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?

Advisory Opinion

The Georgia Government Transparency and Campaign Finance Commission (the “Commission”) has received this request for advisory opinion from the law firm of McKenna Long & Aldridge, LLP due to a number of ambiguities created from a Political Action Committee’s (“PAC”) use of existing Commission disclosure forms.

The Georgia Government Transparency and Campaign Finance Act (the “Act”) requires PACs making aggregate contributions and expenditures to or on behalf of candidates of more than \$25,000 per year to register with the Commission in the same manner as campaign committees. *See* O.C.G.A. § 21-5-34(e). Such PACs are also required to file campaign contribution disclosure reports. *Id.*

The Commission recognizes that the existing disclosure forms are inadequate for PACs’ use. Accordingly, the Commission adopts the attached reporting form to be used by ~~corporate~~ PACs.

For the remaining unanswered questions presented, the Commission finds as follows:

- A PAC registered with the Commission as a Georgia non-candidate committee is not required under the Act and its associated rules to disclose contributions the PAC makes to out-of-state candidates or committees as “expenditures made.” *See* O.C.G.A. § 21-5-3(12).
- A PAC registered with the Commission as a Georgia non-candidate committee is not required under the Act and its associated rules to separately disclose as “expenditures made” each small administrative expense (less than \$100) that the PAC pays for items such as check printing and bank fees. *See* O.C.G.A. §§ 21-5-3(12); 21-5-34(b)(1)(B). However, a PAC is required to disclose the aggregate sum of all such small administrative expenses less than \$100. *See* attached form, p.2, 10a.
- A PAC registered with the Commission as a Georgia non-candidate committee is not 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. *See* O.C.G.A. § 21-5-3(12).

- A PAC registered with the Commission as a Georgia non-candidate committee is 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 period or its periodic campaign contribution disclosure reports. *See* O.C.G.A. § 21-5-3(12). A PAC should disclose such refunds as expenditures.

Prepared by Jonathan Hawkins.

November 21, 2014.