

## ADVISORY OPINION 2004-006

**Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).**

September 29, 2004

Hon. Stewart E. Conner  
Wyatt Tarrant & Combs LLP  
500 W. Jefferson St., Ste. 2800  
Louisville, KY 40202-2898

Dear Mr. Conner:

This is in response to your request on behalf of Southeast Christian Church (“SECC”) for an advisory opinion concerning whether SECC must register as a political issues committee under KRS 121.015(3)(b) and 121.170. You explain that SECC is a church operated as a not-for-profit 501(c)(3) corporation that intends to engage in activities in support of a constitutional amendment to the Kentucky constitution regarding the definition of marriage.

In support of your request, you state that SECC wishes to engage in a variety of activities in support of the Kentucky constitutional amendment regarding the definition of marriage along with its advocacy of other public questions which may appear on the ballot. SECC plans to conduct these activities as a sole entity, through its staff and volunteers. Further, you explain that SECC will not solicit funds or receive contributions for these activities, but rather will rely on the general operating funds of SECC.

You correctly state that KRS 121.015(3)(b) defines a political issues committee as “... three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or

expends money in excess of one thousand dollars (\$1,000)..." Since KRS 121.015 does not define the term "person," in past opinions, see generally KREF Advisory Opinions 1998-001, 1994-007 and 1994-012, the Registry has deferred to KRS 446.010(26), which provides that "unless the context requires otherwise ... '[p]erson' may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, registered limited liability partnerships, joint stock companies, and limited liability companies." (Emphasis added.) Therefore, the use of the term "person" in KRS 121.015(3)(b) may apply to a not-for-profit corporation.

Further, KRS 121.035(3), which prohibits corporate contributions to aid candidates, expressly provides that "[n]othing in this section shall be construed to prohibit a corporation from making contributions in support of a constitutional amendment, a public question which appears on the ballot, or position on an issue of public importance." Therefore, KRS 121.035(3) clearly permits corporate action to advocate or oppose a constitutional amendment. As such, KRS 121.015(3)(b) may reasonably apply the term "person" to a not-for-profit corporation.

Since SECC intends to engage in its support of a constitutional amendment regarding the definition of marriage as a sole entity, without joining with any other persons and without soliciting funds, SECC is not required to file a political issues committee under KRS 121.170.

This advisory opinion represents the Registry's consideration of the circumstances presented in your letter. The Registry's opinion is limited to the application of KRS Chapter 121 to the facts presented. Matters regarding federal law, including the application of the Internal Revenue Code and relevant federal regulations governing § 501(c)(3) organizations are not within the Registry's jurisdiction. If you have any further questions, please do not hesitate to contact the Registry's staff.

Sincerely,

Rosemary F. Center  
General Counsel

RFC/jh

Cc: Registry Members  
Sarah M. Jackson, Executive Director