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General Counsel

### ADVISORY OPINION 2023-002

**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 required. See KRS 121.135(4).**

October 9, 2023

**VIA EMAIL (JAYNECOXREALTOR@GMAIL.COM)**  
**And FIRST CLASS U.S. MAIL**

Ms. Jayne Cox  
Chair  
Kentucky Realtors Political Action Committee  
2708 Old Rosebud Road  
Lexington, KY 40509

**In re: Request for Advisory Opinion: Corporate Sponsorship of Fundraising Event**

Dear Ms. Cox:

This Advisory Opinion is sent in response to your September 7, 2023, request on behalf of the trade association Kentucky Association of Realtors, Inc. ("KYR"), doing business as Kentucky Realtors, and its associated permanent committee Kentucky Realtors Political Action Committee "RPAC"). KYR is a trade association representing more than 13,000 members who are involved in all aspects of real estate, including office managers, appraisers, and auctioneers and is organized as a non-profit Kentucky corporation. Its permanent committee's purpose is to elect candidates who understand and support its interests.

Corporate Sponsorship of Fundraising Event (AO 2023-002)

You explain in your request that RPAC is considering holding a fundraiser at Top Golf in Louisville, Kentucky, that will raise money for its political activities through charging individuals a participation or admission fee. Hosting the event will require a variety of administration and overhead costs, including:

- Food
- Drinks
- Signage
- Marketing
- Venue rental
- Staffing
- Bookkeeping

KYR is considering whether to furnish these items itself or solicit corporate sponsorship to do so. Potential corporate sponsors would be companies with a connection to the real estate industry, such as title companies, law firms, banks, insurance agents, and brokerages. You proposed that the corporate sponsors would provide the actual goods or services, as opposed to monetary donations to KYR or RPAC. A sponsor would pay the applicable vendor directly on behalf of RPAC and would be recognized at the event for their contribution. RPAC would track the costs KYR and other sponsors paid and report them on the events schedule for the appropriate election finance statement. It would also report all admission fees from individuals to the event.

You note that the Registry issued AO 2018-001, relating to a similar fundraising event, which found that corporations in addition to the corporation administering a permanent committee could donate similar items for a fundraiser related to a clay shooting event, including food, signage, golf cart rentals, ear protection, venue fees, and ammunition. You ask whether:

1. The administration and overhead costs and expenses of holding the event, consistent with these types of expenses described above and other similar expenses, are properly considered administrative expenses with the meaning of KRS 121.150(19)?

**Yes.**

2. KYR and any other corporations are permitted to use their own funds to sponsor and pay for or provide administration and overhead costs for the benefit of RPAC as described above, so long as (a) no money is paid or commingled with RPAC funds; (b) RPAC tracks the costs KYR and other corporate sponsors paid and timely and properly reports them on the events schedule of RPAC's election finance statement covering the time period in which the event is held; and (c) RPAC tracks and properly reports all admission fees paid by individuals to participate in the event, itemized as required by law?

**Please see an explanation of reporting requirements below.**

3. For purposes of the opinion, “corporation” includes any corporation, company, partnership, joint stock company, or association?

**Yes**

The core issue in your request is whether certain fundraising expenses consistent with the described fundraising event are properly considered administrative expenses within the meaning of KRS 121.150(19). Regarding contribution limits, KRS 121.150(19) specifically provides that “(n)othing in this section [KRS 121.150] shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.” See KRS 121.150(19). The term “corporation” is not defined in the campaign finance law; however, under KRS 446.010(10), it may extend and be applied to any corporation, company, partnership, joint stock company, or association. Therefore, for purposes of this analysis, KYR is treated as a corporation.

For Kentucky campaign finance law purposes, a political action committee or PAC is treated as a permanent committee (See KRS 121.015(3)(d)) and RPAC is registered as such with the Registry. Prior interpretations of KRS 121.150(19) required a permanent committee to reimburse a corporate sponsor for administrative expenses associated with the committee. However, the United States District Court for the Eastern District of Kentucky has ordered that corporations, limited liability companies and unions are entitled to equal treatment in the exercise of a PAC option, including state permanent committees. *Protect My Check v. Dilger, et al.*, 176 F. Supp.3d 685 (E.D. Ky. 2016). Under this ruling, the Registry has acknowledged that, although corporate contributions to a permanent committee remain prohibited, a corporation such as KYR may sponsor and otherwise administer its permanent committee using corporate funds.

A permanent committee cannot be effectively administered without fundraising efforts. Thus KYR may use its general treasury funds to administer the RPAC Top Golf fundraising event, which includes the items enumerated above, so long as no corporate funds are contributed directly or otherwise commingled in the RPAC account. Because the donation of the goods and services from the corporate sponsors to KYR would not represent a direct contribution from the corporate sponsor to RPAC, RPAC would disclose the event on the events schedule of its election finance statement covering the time period in which the event is held, but would not, as described in AO 2018-001, report itemized contributions from the corporate sponsors of the goods and services. It would instead report in-kind contributions from KYR as part of the cost of the event. RPAC also must report all admission fees individual pay for participation in the event as itemized contributions, as required by law.

KYR may not use its funds or otherwise accept corporate donations for prizes or other inducements offered to contributors in exchange for their support of RPAC. In general, donations of items to be offered in exchange for contributions are considered in-kind contributions, which includes the payment for or provision of certain goods and services valued at more than one hundred dollars in the aggregate. See KRS 121.015(6)(c) and (d).

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Please keep in mind that this Advisory Opinion is based on the specific facts set forth in your written request and only may be applied to cover the conduct in the transaction you describe. If you have any questions concerning this Advisory Opinion, please do not hesitate to contact the Registry. Thank you.

Very truly yours,

A handwritten signature in black ink that reads "Leslie M. Saunders". The signature is written in a cursive, flowing style.

LESLIE M. SAUNDERS  
General Counsel

Cc: Registry Members  
John R. Steffen, Executive Director