



FEC ENFORCEMENT POSITION ON CORPORATE PAC DISCLAIMERS

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In a 2001 enforcement action, the FEC for the first time found that a corporate PAC's failure to include the specific phrase "**you have the right to refuse to contribute without reprisal**" in PAC solicitation materials was a violation of law. The matter was settled with the payment of a \$9,000 and an agreement by the PAC to include the specific phrase in all future solicitations.

The Matter (MUR 3770) was generated by a complaint filed by a disgruntled former corporate employee. The PAC's printed solicitation materials included language that "the amount you should contribute is a personal decision and will neither benefit nor disadvantage you in your job)" and that all contributions are "voluntary," which is wording used in many PAC brochures and previously believed to be sufficient. However, the FEC held that such language by itself was insufficient and that the actual statutory phrase of "right to refuse to contribute without reprisal" should have been used by the PAC in both written and oral solicitations. Now that the Commission has taken this Position in an enforcement matter, it is likely that the presence (or absence) of this language in PAC solicitations will be an issue in the future whenever the FEC has the occasion to review PAC materials of PACs sponsored by corporations and trade associations.

Recommendations:

- All PAC solicitations should include the following language, in full:

Contributions to "X" PAC are for political purposes. All contributions to "X" PAC are voluntary. You may refuse to contribute without reprisal. Contributions to "X" PAC are not tax deductible for federal income tax purposes.

- If a specific dollar amount or percentage of income is solicited as a contribution, the solicitation must also include the statement that:

Guidelines are merely suggestions and you may contribute more or less than the guidelines suggest. "Company X" will not favor or disadvantage anyone by reason of the amount contributed or the decision whether to contribute.

- We recommend that all oral solicitations be accompanied by the delivery of written material (such as a PAC response card) containing the appropriate notices. It is often difficult for a PAC to prove that a purely oral solicitation contained the requisite disclaimer language (and perhaps also unrealistic to expect a personal conversation to include such formal notices).

- PAC's are required to use their "best efforts" to obtain and report the name, address, occupation, and employer information for donors of over \$200 per year. A PAC that does not report the occupation and employer information for each contributor must show that its solicitations specifically requested this information. The solicitation must also inform the contributor that the PAC is required by law to report it. FEC Regulations provide two examples of such a statement:

Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation, and the name of the employer of individuals whose contributions exceed \$200 in a calendar year.

To comply with federal law, we must use best efforts to obtain, maintain, and submit the name, mailing address, occupation, and name of employer of individuals whose contributions exceed \$200 per calendar year