



Wiley Rein & Fielding LLP

MEMORANDUM

TO: NABPAC Members

FROM: Jan Witold Baran
D. Mark Renaud

DATE: December 16, 2004

RE: Payroll Deduction for Trade Association PACs

At its open meeting on December 16, 2004, the Federal Election Commission (“FEC” or “Commission”) approved a Notice of Proposed Rulemaking (“NPRM”) pertaining to the use of payroll deduction systems by a member corporation to collect contributions to a trade association’s federal PAC. The NPRM proposed a change in the FEC’s rules.

Under current law, a corporate member of a trade association (or the trade association itself) may solicit the corporation’s restricted class (*i.e.*, its executive or administrative personnel, stockholders, and their families) for contributions to the trade association’s federal PAC if the corporation has provided prior approval to the trade association. *See* 11 C.F.R. § 114.8. However, current FEC regulations prohibit a member corporation from employing a payroll deduction or another type of check-off system for purposes of collecting contributions for the trade association PAC. *Id.* § 114.8(e)(3).

The change proposed by the NPRM would eliminate this restriction and allow corporations to use payroll deduction to collect contributions to a trade association’s PAC from the corporation’s restricted class. Specifically, the proposed regulations would delete the prohibition in subparagraph 114.8(e)(3) and add the following as subparagraph 114.8(e)(4):

A corporation may provide incidental services to collect and forward contributions from its employee stockholders and executive and administrative personnel to the separate segregated fund of a trade association of which the corporation is a member, including a payroll deduction or check-off system, upon written request of the trade association.

The proposed regulations in the NPRM further make conforming changes to subparagraph 114.2(f)(5) (regarding what is and is not a prohibited corporate facilitation). Finally, the proposed regulations include a requirement that a corporation utilizing payroll deduction for a trade association PAC make the payroll deduction system available at cost upon written request

to any labor union representing any members working for the corporation. *See* proposed 114.8(e)(4).

The Commission, in the NPRM, provides for a 30-day comment period from the time the NPRM is published in the *Federal Register*. For more information about the NPRM or to inquire about submitting comments, contact Jan Witold Baran at 202.719.7330 (jbaran@wrf.com) or Mark Renaud at 202.719.7405 (mrenaud@wrf.com).