

FEC Agrees to Disagree about Whether an LLC Can Pay PAC Administrative Expenses

November 2007

On behalf of GMAC LLC, Wiley Rein LLP requested guidance from the Federal Election Commission on whether GMAC LLC may pay the administrative and solicitation costs of a PAC established by a wholly owned subsidiary corporation, and whether the PAC may be named "GMAC LLC PAC" and abbreviated as "GMAC PAC." The FEC responded by issuing Advisory Opinion 2007-15, in which the FEC explained that it was unable to reach a consensus as to the first issue, but concluded that the PAC may nonetheless include the name "GMAC LLC" in its name and may use the abbreviation "GMAC PAC."

As explained by Wiley Rein LLP in the advisory opinion request, a wholly owned subsidiary corporation of GMAC LLC intends to establish a PAC. GMAC LLC wanted to (1) use its own personnel and resources to administer the PAC, (2) name the PAC "GMAC LLC PAC," and (3) refer to the PAC by the abbreviation "GMAC PAC."

The advisory opinion request argued that the affiliated relationship of GMAC LLC to its wholly owned subsidiary corporation should permit GMAC LLC to use its resources to administer the PAC. This result appears to be justified by analogous FEC regulations and advisory opinions. Other FEC advisory opinions suggested that the PAC could also be named and abbreviated in the manner desired by GMAC LLC.

Nonetheless, the FEC Commissioners could not agree on whether the affiliation of GMAC LLC and its wholly owned corporate subsidiary was enough to permit GMAC LLC to use its resources to administer the PAC. However, all five Commissioners agreed that the PAC name could include "GMAC LLC" in its name—along with the name of the

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subsidiary corporation—and could be abbreviated as "GMAC PAC."

Jan Baran and Caleb Burns submitted the request on behalf of GMAC LLC.