

Local Prosecutor Calls Foul in Campaign's NCAA Ticket Raffle

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A local prosecutor in Douglas County, Kansas, recently warned Congressman Tim Huelskamp's campaign committee that it may not conduct a raffle as an incentive to raise contributions. The incident is a reminder of the confusing intersection between federal and state law that federal candidates and PACs frequently must navigate.

The offending e-mail from the Huelskamp campaign offered to enter donors who gave at least \$10 to his re-election effort into a drawing for four tickets to weekend games featuring the University of Kansas, Kansas State University, and Wichita State University. Under federal campaign finance law, this is perfectly legal. The FEC has issued guidance permitting the practice for both candidate campaign committees and PACs. Corporations that sponsor employee-funded PACs may incentivize contributions to the PAC by paying for raffle prizes as a solicitation cost, so long as the value of the prizes is not disproportionate to the amount of contributions raised.

But state law also plays a role. Most states' gaming laws prohibit raffles, defined as programs in which a payment is required in exchange for the chance to win a prize. Many states where raffles are prohibited may permit certain nonprofit organizations to sponsor raffles, but campaign committees, for-profit corporations, and PACs often do not qualify. Sweepstakes (*i.e.*, programs where "no purchase is necessary," and entrants simply give their contact information in order for a chance to win a prize) are generally less regulated under state law. Campaign committees and PACs considering programs to incentivize contributions should look to this alternative if a raffle is prohibited under the relevant state law.

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State gaming laws are just one example of how federal and state laws intersect for federal campaign committees and PACs. Other issues that commonly arise are state laws governing disclaimers, contribution limits, blackout periods for soliciting contributions, and political telephone calls. Federal law may or may not preempt these types of regimes depending on the circumstances.

The Wiley Rein Election Law practice frequently advises clients on incentive programs for their political fundraising as well as broader questions about the applicability of federal or state law.