

Recent FEC Advisory Opinions

January 2005

2004-41: FEC Finds No Affiliation

On December 16, 2004, the FEC found no affiliation between the federal PACs of the CUNA Mutual Insurance Society (CMIS) and the Credit Union National Association (CUNA). FEC Advisory Opinion 2004-41, at <http://ao.nictusa.com/ao/no/040041.html>. The FEC found this lack of affiliation because, among other things, there were: (1) no overlapping ownership interests except for a 1/135,000 vote based upon mutual insurance policies, (2) no formal agreements for one entity to participate in the governance of the other and (3) an overlap of membership/mutual policy owners of only 6.1 percent. Because the FEC found the CMIS PAC and CUNA's PAC, the Credit Union Legislative Action Council (CULAC), not to be affiliated, the two PACs each maintain their own contribution limits.

2004-42: Use of LLC for PAC Expenses

In FEC Advisory Opinion 2004-42, available at <http://ao.nictusa.com/ao/no/040042.html>, the FEC allowed a wholly owned and affiliated LLC of a corporation to pay the establishment, administrative and solicitation expenses of the corporation's connected federal PAC. In addition, the FEC allowed the PAC to use the name of the LLC and not the parent in the PAC name as long as the identity of the parent corporation was disclosed on FEC Form 1, Statement of Organization.

FEC Fails to Issue Lowest Unit Charge Opinion

At its open meeting on December 16, 2004, the FEC failed to reach an agreement with respect to a request from the Missouri Broadcasters Association (MBA). In its Advisory Opinion Request, available at www.fec.gov/aos/aoreq.shtml, the MBA asked whether a broadcasting station may charge a federal candidate what is known

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as the "lowest unit charge" (LUC) for advertisements even if the candidate fails to include the disclaimer required by the Communication Act of 1934 (as amended by the Bipartisan Campaign Reform Act of 2002), which triggers LUC eligibility. Because of this intersection of the nation's communications and campaign finance laws, and the uncertainty caused by the Federal Communication Commission's failure to promulgate any rules under the statute at issue, the FEC put off discussion on this request until later in 2005.