

FEC Continues to Grapple with Scam PACs

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The Federal Election Commission (FEC) recently discussed ways the agency could address mounting public concern about so-called Scam PACs, ultimately deciding that its Scam PAC Working Group should continue to study the issue. The term “Scam PAC” generally describes a political committee that promises donors their contributions will be used to fund candidate support activities, but instead spends nearly all its funds on overhead expenses. Typically, the overhead expenses are paid to the committee’s organizers. In more serious cases, the committees are operated as fraudulent entities and never register with the FEC.

The FEC has limited jurisdiction to act in this area because the Federal Election Campaign Act (FECA) prohibits only a narrow subset of fraudulent activity. Since at least 2016, the FEC has annually asked Congress to legislatively address this issue. In this year’s annual legislative recommendations, the FEC went a step further and specifically asked Congress to amend FECA to define and prohibit fraudulent fundraising practices. Although the U.S. Department of Justice has prosecuted Scam PAC organizers under mail- and wire-fraud statutes in extreme cases, gaps in the law make civil enforcement difficult. After noticing an uptick in complaints about potential Scam PACs, the FBI recently issued a press release urging the public to research PACs before making contributions.

Given the agency’s limited authority, the FEC formed the Scam PAC Working Group to propose ways that the FEC could address the growing concern about Scam PACs. Most recently, the Scam PAC Working Group’s proposals focused on increasing public disclosure and education. One proposal recommended that the FEC add a tool to its website that would display an overview of a PAC’s spending on “direct candidate support” compared to overhead expenses.

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However, some commissioners recognized that the proposed “direct candidate support” category appeared to be underinclusive. One commissioner also expressed concern that the proposed data categories could potentially lead to members of the public accusing legitimate groups of being Scam PACs. Ultimately, the Commission directed the Scam PAC Working Group to continue studying the issue, examine the proposed data categories, and build out its proposals in greater detail.