



FAX COVER SHEET

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2005 JAN 21

Name: Mr. Brad C. Dauter

Company/Department: Federal Election Commission

Fax Number: 202/219-3923 Date: January 21, 2005

Total number of pages including cover sheet: 5

From: Kurt R Bauer

Message: Comment letter regarding Payroll Deductions by Member Corporations for 529 Contributions

What's New at the WBA...

Look Ahead at the WBA Bank Executives Seminar
What will your bank look like five years from now? Are you keeping up with expanding services and delivery channels, increasing regulatory requirements, and growing competition? Gain new perspective - from sunny Arizona - at the WBA Bank Executives Seminar, Feb. 16-19. Register before Jan. 14 for early bird rates for WBA and associate members, bank directors, and spouses/guests. Visit www.wisbank.com or contact WBA's Becky Weix at 608/441-1250 or bweix@wisbank.com.

The information contained in this facsimile message and any attached documentation is intended to be general information only and does not constitute legal advice. Transmission of this information is not intended to create, and receipt does not constitute, an attorney-client relationship. Information contained in this facsimile message is intended only for the personal use of the designated recipient(s) above. If you have received this message in error or if you do not receive all the pages, please call WBA immediately.



January 21, 2005

VIA FACSIMILE
Mr. Brad C. Deutsch
Assistant General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463
202/219-3923

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2005 JAN 21 P 4: 01

Re: Payroll Deductions by Member Corporations for SSF Contributions.

Dear Mr. Deutsch:

The Wisconsin Bankers Association (WBA) is the largest financial institution trade association in Wisconsin representing over 300 state and nationally chartered banks, savings and loans associations, and savings banks located in communities throughout the State. The WBA appreciates the opportunity to comment on the proposed rule issued by the Federal Election Commission (FEC) concerning the proposed amendments to its rules regarding contributions to the separate segregated fund (SSF) of a trade association. The WBA welcomes FEC's action in issuing the proposed rule and exhorts the FEC for the speedy adoption of this proposed rule.

The proposed rule would permit a corporate member of a trade association to provide incidental services to collect and forward contributions from its restricted class employees to the trade association's SSF, including a payroll deduction or check-off system, upon written request of the trade association. The proposed rule would also require that the same services be provided for contributions to the SSF of any labor organization that represents employees of the corporation, upon written request of the labor organization.

4721 SOUTH BIRMINGHAM LANE
MADISON, WI 53718

P.O. BOX 8880
MADISON, WI 53708-8880

608-441-1200
FAX 608-661-9381

www.wisbank.com

The WBA strongly supports the proposed rule and joins other commenters to bring attention to the legal, practical, and political considerations supporting the elimination of the payroll deduction prohibition.

Legally, the payroll prohibition is inconsistent with the text and spirit of the law. A textual analysis of the law reveals a desire to create a legal scheme consisting of minimal limitations. Sections 2 U.S.C. 441b(b)(4)(D) and 11 C.F.R. 114.8(c) impose a number of conditions that have to met before a trade association can solicit SSF contributions. In FEC's own words, "[o]nce these conditions are met, '[t]here is no limitation on the method of soliciting voluntary contributions or the method of facilitating the making of voluntary contributions . . .,'" 69 Fed. Reg. 76629, that trade associations may use. Despite this, the last sentence of 114.8(e)(3), the payroll deduction prohibition, stands in such contrast to this scheme that it clearly contradicts the text and spirit of the law. The WBA fully supports the adoption of the proposed rule as it would appropriately eliminate this contradiction.

Moreover, FEC's own advisory opinions support the elimination of the prohibition. For example, the FEC issued advisory opinions to both allow the use of technologies of automation and information technology and to address, on a case-by-case basis, questions that arose from a prohibition that seems to be out of synch with today's technological landscape. In Advisory Opinions 2000-4 and 1998-19, the FEC allowed member corporations to electronically deduct contributions to a trade association's SSF so long as the member corporations did not deduct the contributions from employee payrolls. In Advisory Opinion 1999-35, the FEC permitted the use of ACH pre-authorized transfers for SSF contributions deducted monthly from the personal checking accounts of restricted class employees of consenting member corporations.

Strong practical and factual considerations support the elimination of the prohibition. The law known as "Check 21" is perhaps the best illustration of the technological signs of our times. The prohibition on the use of automated processes by virtue of advances in information technology does not make much sense in today's technologically

advanced environment. Payroll deduction is a common method widely used to make payments of many types. Contributions for charitable, savings, and other purposes are often made through payroll deductions. The use of electronic methods of payments for making and receiving payments has grown tremendously over the years. Paper check use has been on a steady decline so much so that in 2003, according to a Federal Reserve study, electronic payments have outpaced paper checks. What is perhaps most convincing that the prohibition is quaint or alien to today's time is the FEC's strong encouragement to use electronic messaging technology to submit comments to this proposed rule.

Politically, WBA argues that the prohibition is an unnecessary restraint on participation in the political process. Eliminating the payroll prohibition will both enhance political participation and the reporting transparency of contributions.

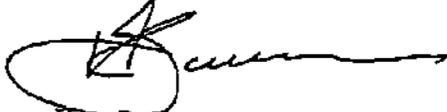
In terms of reporting accuracy and transparency, these mechanisms for recordkeeping and automation are well-tested and seasoned. The elimination will assist groups who scrutinize the dynamics of monetary contributions. This enhances the political process.

Eliminating the payroll prohibition also enhances the political process in a different way. It would increase the participation of smaller trade associations in the political process. By having a technologically enhanced method of raising funds, smaller trade associations would be able to better represent their members' interests. Allowing payroll deductions and check-off systems would allow restricted class employees to spread out their contributions easily over time.

The prohibition, nonetheless, affects the members of trade associations of all sizes. Not all corporate members of trade associations have their own SSFs. These member companies may rely, and some of them exclusively, on their trade association's SSF to serve as their political voice. The WBA can very confidently state that a trade association's SSF is one of the most accessible mechanisms for political participation by member corporations.

In conclusion, the WBA urges the FEC to carefully consider these comments on this very important issue and encourages the quick adoption and implementation of this proposed rule. Once more, the WBA appreciates the opportunity to submit comments on the proposed rule eliminating the SSF payroll deduction prohibition.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt R. Bauer", with a large, stylized initial "K" circled in a hand-drawn oval.

Kurt R. Bauer
President/CEO