



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 14, 2005

MEMORANDUM

TO: The Commission
General Counsel
Staff Director
Public Information
Press Office
Public Records

FROM: Brad C. Deutsch 
Assistant General Counsel

SUBJECT: Additional Untimely Comment on Payroll Deductions by Member
Corporations for Contributions to a Trade Association's Separate
Segregated Fund

Attached you will find one additional untimely comment submitted in response to the above Notice of Proposed Rulemaking, Notice 2004-18, published on December 22, 2004 (69 FR 76628).

Attachments

cc: Deputy General Counsel
Associate General Counsel
Congressional Affairs Officer
Executive Assistants



Michigan Bankers Association

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OFFICE OF GENERAL
COUNSEL

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February 3, 2005

Mr. Brad C. Deutsch
Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Federal Election Commission; Notice of Proposed Rulemaking: 11 CFR Part 114; Payroll Deductions by Member Corporations for Contributions to a Trade Association's Separate Segregated Fund; 69 Federal Register 76628, December 22, 2004

Dear Mr. Deutsch:

The Michigan Bankers Association (MBA) appreciates the opportunity to comment in support of the Federal Election Commission's (Commission) "proposed amendments to its rules regarding contributions to the separate segregated fund (SSF) of a trade association by employee-stockholders and executive and administrative personnel (collectively, 'restricted class employees') of corporations that are members of trade associations." The MBA's membership includes community and regional banks, holding companies, savings associations, trust companies and savings banks. For many of these smaller organizations, their only outlet to the political process is through their trade association.

The MBA praises the Commission for issuing the proposed rulemaking and urges its quick adoption and implementation.

As the Commission stated at the beginning of the Analysis section of the Notice of Proposed Rulemaking, at 69 Federal Register 76631, the question is "... whether the regulatory prohibition against payroll deduction and check-off systems continues to make sense." In our view, the prohibition fails to reflect the use of modern technology. Payroll deduction and other forms of electronic payment transactions are common methods widely used - in fact, in 2003 the Federal Reserve reported the number of electronic payment transactions (44.5 billion) exceeded that of checks paid (36.7 billion). As the Commission notes, these statistics support the fact that payroll deduction is a common method employed by millions of Americans for a variety of regular payments, including health care savings accounts,

mortgage and insurance payments and other regularly scheduled payments, and the mechanisms for recordkeeping and automation are well tested and seasoned. The Commission has historically permitted employee contributions to SSFs sponsored by corporations and labor organizations. There is no legal or logical reason for continuing the prohibition on payroll deductions from one segment of the populace while permitting it for another.

The proposal is well grounded in the Commission's own regulations. As the Commission points out in the proposal, trade associations are able to solicit contributions from restricted class employees of member corporations under the Federal Election Campaign Act of 1971, as amended, at 2 U.S.C. 441b(b)(4)(D). 69 Federal Register 76229 December 22, 2004 In addition, the Commission's regulations provide that "there is no limitation on the method of facilitating the making of voluntary contributions which a trade association may use." 11 CFR 114.8(e) (3).

The meaning and breadth of the above provisions were further explained in the Commission's Advisory Opinion 2003-22, wherein the Commission authorized the collecting of voluntary contributions by a corporate member of a trade association from the member's restricted class employees and forwarding the contributions to the trade association's SSF. In addition, the Commission's Advisory Opinion 1999-35 permits restricted class employees' contributions to a trade association's SSG to be deducted from the contributors' depository accounts.

These provisions and the Commission's own interpretations demonstrate that the proposed change to permit payroll deductions is well grounded in statute and regulation. Extending this authority to payroll deductions for a trade association's SSF is a logical and fair regulatory change that permits corporate members of trade associations the same opportunities that labor organizations and corporations themselves enjoy. Following the advent of more changes to the nation's campaign finance laws, it is harder for individuals to participate in the political process. This change would help promote equitable and increased participation. For all of those reasons, we support prompt adoption of the proposed rulemaking and urge its speedy implementation. The proposed changes to the Commission's regulations would be consistent with the regulatory and statutory provisions mentioned above and would allow trade associations access to a means of collecting

contributions that is currently available to corporations and labor organizations.

Thank you for this opportunity to share our views. If you have any questions or need additional information regarding this letter, please do not hesitate to contact myself or Ryan Tarrant at (517) 342-9050.

Sincerely,

A handwritten signature in black ink, reading "Dennis Koons". The signature is fluid and cursive, with the first name "Dennis" written in a larger, more prominent script than the last name "Koons".

Dennis Koons
President and Chief Executive Officer
Michigan Bankers Association