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OFFICE OF GENERAL
COUNSEL

Perkins
Coie

607 Fourteenth Street N.W.
Washington, D.C. 20005-2003

PHONE: 202.628.6600

FAX: 202.434.1690

www.perkinscoie.com

November 18, 2009

Thomasenia Duncan, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

AOR 2009-30

Re: Advisory Opinion Request

Dear Ms. Duncan:

We write on behalf of TechNet, pursuant to 2 U.S.C. § 437f, to seek an advisory opinion from the Federal Election Commission.

Factual Background

TechNet, a Section 501(c)(6) trade association, is the preeminent bipartisan political network of leading U.S. technology companies, and of technology company CEOs and senior executives. Its members include companies and executives in a broad number of fields that impact the technology industry, including information technology, e-commerce, clean technology, biotechnology, venture capital and investment banking.

TechNet has a multi-candidate separate segregated fund that is registered with the FEC.

As a condition of membership, TechNet's corporate members pay TechNet annual dues. These dues payments help defray the costs TechNet incurs to provide its services, including government relations work, issues briefings, and continuing education for members on issues of interest to the technology industry.

Many of TechNet's corporate members have their own federally-registered separate segregated funds. TechNet has noticed that, particularly in these difficult financial times, many of these member PACs are not realizing their full fundraising potential. Faced with a slow economy on the one hand, and increased regulation of government relations work on the other, many companies do not have the resources they once had to allocate to PAC fundraising. In addition, TechNet member companies are finding that many PAC-solicitable individuals are less

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motivated to contribute now, in a time of economic recession. TechNet member companies that wish to grow their PACs for the coming election year, or even sustain them at 2007-2008 levels, may need some expert help to do so.

To that end, TechNet would like to augment the range of services it provides to its members by adding to the services it offers its membership a PAC fundraising services package. TechNet's fundraising staff have years of experience designing fundraising strategies that are custom-made for a particular audience, and their experience in the technology industry has well-suited them to provide this service for companies who face the same issues.

TechNet's fundraising package would be optional, and offered only to its corporate members who pay an extra dues assessment for the services, plus expenses. The dues assessment would be set at a monetary level that ensures TechNet will be paid the full fair market value of the products and services it would provide.

The package would include:

1. **A full assessment of the member company's PAC.** TechNet staff would conduct a review of the strengths and weaknesses of the member company's PAC's recent fundraising drives and programs. They would then make recommendations as to where the PAC should devote its efforts to receive maximum participation.
2. **A periodic newsletter for participants.** The newsletter would include policy updates and fundraising tips and ideas.
3. **PAC fundraising and marketing materials.** These would be custom-designed, printed, and distributed for each participant company's PAC.
4. **Fundraising event planning.** TechNet's staff would help with all aspects of planning and executing PAC fundraising events, including choosing venues and menus, designing and distributing invitations, following up with invitees, and collecting RSVPs. They would not, however, collect contributions.

Legal Discussion

The Federal Election Campaign Act and the Commission's implementing regulations permit a corporation with a connected PAC to use its own resources to establish, administer, and solicit funds for the PAC. *See* 11 C.F.R. § 114.5. This rule permits the use of a wide variety of resources, including corporate-paid staff, corporate websites and accounting systems, corporate facilities and conference rooms, corporate-purchased prizes, and corporate-paid outside consultants to conduct the fundraising activities necessary to raise funds for their PACs. *See id.*

The program TechNet proposes would fall squarely within Section 114.5's allowance. Each participating corporate member would pay, with its own corporate dollars, for the fair market value of all of the goods and services TechNet would provide. TechNet would set the additional dues amount at a level sufficient to guarantee that each member would pay for the full fair market value of the products and services TechNet's staff would provide for it. And each participant would pay separately for any expenses TechNet incurs (such as paper, printing, additional server charges, postage, etc.) to perform each project for that member. As a result, the corporation would ultimately use its own resources for all of the TechNet's added help.

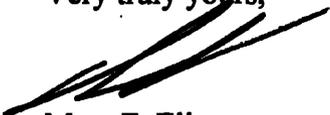
The fact that TechNet staff, and not direct employees of the corporate members, would provide these services does not disturb the conclusion that the resources used would be the member corporations' own. Commission precedent is clear that a corporation's payment of fees or other amounts to a third party is a corporate 'resource' for purposes of the Act and the Commission's rules governing corporate facilities and resources. *See* Pre-MUR 416, First General Counsel's Report (Westar Energy, Inc.) at 16; *see also* MUR 5573, Statement of Reasons of Chairman Thomas and Commissioners Mason, McDonald, and Weintraub.

The Commission has historically supported attempts by corporations to innovate and grow their PACs in new ways. It has, for example, approved the use of charity match programs as a way to encourage PAC contributions, *see* Advisory Op. 2003-4; has permitted corporations to use electronic signatures to give the requisite approval to a trade association to solicit their restricted classes, *see* Advisory Op. 2000-22; and has allowed a trade association to use its website to obtain that approval, *see* Advisory Op. 2000-10. Like these programs, TechNet's proposal is simply another way TechNet's corporate members may use the resources to which they have access and for which they have paid – TechNet's own staff – to help increase participation in their PACs.

We seek confirmation that the Commission agrees, and approves this program as an acceptable use of each participating corporation's resources to solicit contributions to its PAC.

Thank you for your prompt consideration of this matter. We look forward to hearing from you soon.

Very truly yours,



Marc E. Elias
Rebecca H. Gordon
Counsel to TechNet



"Gordon, Rebecca (Perkins Coie)"
<RGordon@perkinscoie.com>

To <jwaldstreicher@fec.gov>
cc
bcc

12/03/2009 10:01 AM

Subject Advisory Opinion Request on behalf of TechNet

History: This message has been forwarded.

Ms. Waldstreicher:

I am writing you on behalf of TechNet to follow up on our conversation from yesterday about the advisory opinion request we have submitted on TechNet's behalf. The Commission should consider the request as one from the corporate members of TechNet, who will be offered the service discussed in the request.

Please let me know if you have additional questions or if I can provide further information.

Best,

Rebecca

Rebecca Gordon
Perkins Coie LLP
ph. 202.434.1676
f. 202.654.9666
rgordon@perkinscoie.com

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