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For meeting of March 30, 2023

March 23, 2023

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *NFS for LJS*
Acting General Counsel

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Subject: Draft AO 2023-02 (Humana) DRAFT A

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12:00pm (Eastern Time) on March 29, 2023.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <https://www.fec.gov/legal-resources/advisory-opinions-process/>.

Attachment

1 ADVISORY OPINION 2023-02

2

3 Joseph M. Birkenstock, Esq.
4 Sandler Reiff Lamb Rosenstein & Birkenstock, P.C.
5 1090 Vermont Ave. N.W., Suite 750
6 Washington, DC 20005

DRAFT A

7

8 Dear Mr. Birkenstock:

9 We are responding to your advisory opinion request on behalf of Humana Inc.

10 (“Humana”) and its separate segregated fund, Humana, Inc. PAC (“Humana PAC”), concerning
11 the application of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-45 (the “Act”), and
12 Commission regulations to the affiliation status of Humana PAC with KAH Hospice Company
13 Inc. (“KAH Hospice”), and its separate segregated fund, KAH Hospice PAC.

14 The Commission concludes that Humana and KAH Hospice, and their respective separate
15 segregated funds, are no longer affiliated.

16 ***Background***

17 The facts presented in this advisory opinion are based on your letter received on February
18 17, 2023.

19 In August 2021, Humana acquired Kindred at Home, a combined home health and
20 hospice company. At that time, Gentiva Health Services, Inc. (“Gentiva”), a Humana subsidiary,
21 “was the principal holding company within Humana for both the home health business and the
22 hospice business, operating through a number of subsidiaries and serving as the connected
23 organization” for what was then Gentiva Health Services Inc. PAC (“Gentiva PAC”).¹ Both
24 Humana and Gentiva amended the FEC Form 1, Statement of Organization for their respective
25 separate segregated funds to list each other as affiliated entities.

¹ Advisory Opinion Request (“AOR”) at 001.

1 At the time it acquired Kindred at Home, in 2021, Humana announced that it intended to
2 maintain only a minority interest in Kindred at Home’s hospice business but would retain in full
3 Kindred at Home’s home health business. Humana then reorganized Kindred at Home’s
4 business, creating KAH Hospice and transferring to it the entities and assets of Kindred at
5 Home’s hospice business. On August 11, 2022, Humana sold a 60% controlling interest in KAH
6 Hospice to a private equity firm Clayton, Dubilier & Rice (“CD&R”).² The sale was
7 accomplished via a limited partnership, Falcon Hospice, L.P., the general partner in which is a
8 limited liability company, Falcon Hospice GP, LLC (the “LLC”), owned jointly by CD&R
9 (60%) and Humana (40%). The LLC has “plenary authority over Falcon Hospice, L.P.,”³ which
10 in turn exercises control over its subsidiaries, including, KAH Hospice⁴ The LLC is governed by
11 a seven-member Board of Directors (“Board”). Four of the Board members are appointed by
12 CD&R, two by Humana and the seventh member is the CEO of KAH Hospice.⁵

13 Following Humana’s acquisition of Kindred at Home and creation of KAH Hospice,
14 certain members of the Kindred at Home management team and personnel aligned with hospice
15 operations were realigned to and employed by KAH Hospice. While the KAH Hospice
16 employees were under the Humana, Inc. umbrella between August 2021 and August 2022, no
17 KAH Hospice personnel have an employment relationship with Kindred at Home or Humana
18 post-spinoff.⁶

² CD&R has “no management or significant ownership overlap with Humana Inc.” and “engag[es] in the KAH [Hospice] transaction solely as an arm’s length investor and business partner.” AOR002, fn. 1.

³ AOR002

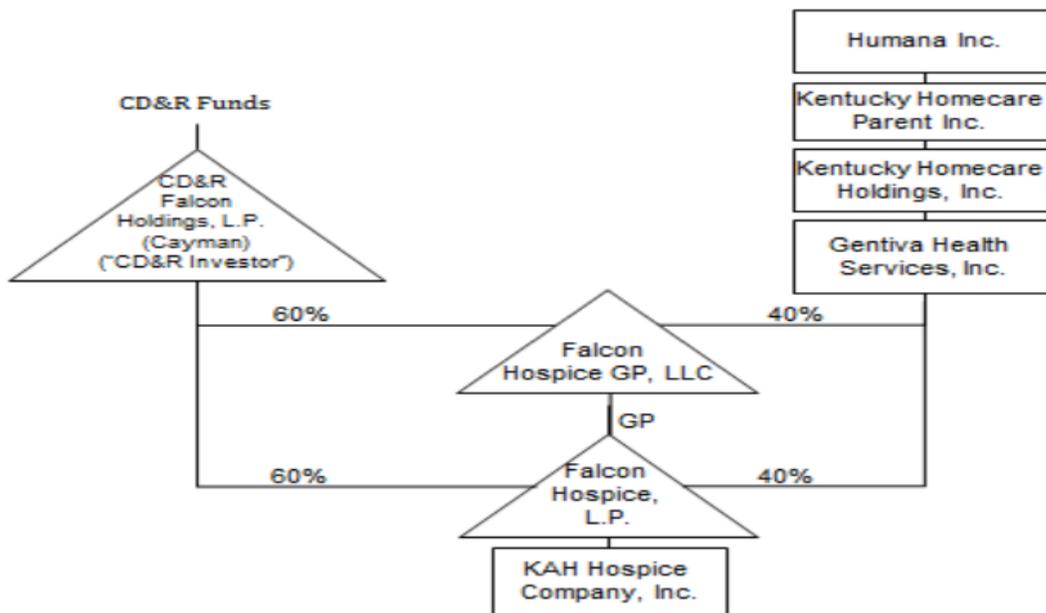
⁴ *Id.*

⁵ *Id.*

⁶ *See* AOR004.

1 Since the spin off, KAH Hospice has become the connected organization for the former
2 Gentiva PAC (now operating under its new name, KAH Hospice PAC).⁷ KAH Hospice PAC is
3 managed and operated by its Treasurer in cooperation with key business leaders within the
4 restricted class⁸ of the committee’s connected organization (KAH Hospice). Humana PAC is
5 run by a PAC Board elected by Humana’s restricted class. “Neither [Humana’s nor KAH
6 Hospice’s] PAC operations (either overall or on a day-to-day basis) include any involvement by
7 the other corporation or the other PAC.”⁹

8 The following diagram illustrates the business connections between Humana Inc. and
9 KAH Hospice Company, Inc.



10

⁷ See KAH Hospice PAC FEC Form 1, Statement of Organization, filed on August 10, 2022. <https://docquery.fec.gov/cgi-bin/forms/C00407080/1622810/>.

⁸ A corporation’s restricted class is made up of its stockholders, executive and administrative personnel, and their families. 11 C.F.R. §§ 114.1(j), 114.5(g).

⁹ AOR004.

1 The terms of the sale transaction provide that as long as Humana’s equity interest in
2 KAH Hospice remains at least 50% of the amount it owned at closing (*i.e.* half of 40%) and
3 amounts to at least 15% of the then-outstanding stock in KAH Hospice, it will retain a right of
4 approval on certain actions including: 1) Any waiver or amendment to the Stockholders
5 Agreement, charter or by-laws or similar constituent documents that (i) adversely and
6 disproportionately affects Humana relative to CD&R or (ii) amends special rights expressly
7 granted to Humana; 2) non-pro rata distributions, dividends, redemptions or repurchases (other
8 than ordinary course employee stock repurchases in connection with a termination of
9 employment; 3) transactions with CD&R (or its affiliates) other than (i) ordinary course
10 transactions between portfolio companies of CD&R and KAH Hospice on arm’s-length terms, or
11 (ii) issuances of equity or equity-like securities of KAH Hospice with respect to which Humana
12 has received an opportunity to participate pursuant to its preemptive rights; 4) approval of annual
13 budget, provided that in the absence of approval, the budget will be 107.5% of the annual budget
14 for the immediately preceding year; 5) hiring and firing or material changes in compensation of
15 the CEO of KAH Hospice; 6) incurrence of indebtedness if such debt would result in KAH
16 Hospice’s debt being greater than 7.5x Last Twelve Months of Earnings Before Interest, Taxes,
17 Depreciation, and Amortization; 7) settling litigation for over \$35 million; or 8) authorizing or
18 entering into and of these transactions.¹⁰

19 These rights are imposed by the Falcon Hospice GP LLC agreement, which disallows the
20 general partner from taking these actions without the “Required Consents” of the Humana

¹⁰ See AOR005

1 Member of the partnership.^{11,12} While Humana retains the right of approval over these actions, it
2 may not initiate any of them. For example, Humana’s only authority over decision making
3 employees is “the right to approve a change of the CEO, or of the CEO’s compensation, but it
4 has no authority to fire, demote, remove, or otherwise exercise control over the CEO or any other
5 KAH Hospice personnel.”¹³ (emphasis in original)

6 Neither Humana nor KAH Hospice owns a controlling interest in the voting stock or
7 securities of the other. Humana’s shareholder base will not overlap with that of KAH Hospice
8 other than to the extent that Humana itself is the minority owner of KAH Hospice.

9 Humana and KAH Hospice will not share any officers or employees other than the two
10 Humana executives who are appointed to the seven-member Board of KAH Hospice.

11 Further, while there is nothing in the sale agreements that “precludes Humana from
12 providing addition[al] debt funding capital investment, or administrative support to KAH,”¹⁴ and
13 while Humana holds a minority proportion (approximately 15%) of the overall debt syndicate
14 that resulted from the sale, “there are no plans to provide additional debt or other capital funding
15 to KAH Hospice, and no plans to provide direct or indirect administrative, fundraising, or other
16 support to either KAH Hospice itself or to KAH Hospice PAC.”¹⁵

17 Additionally, the request explains that any continued business between Humana and
18 KAH Hospice will “flow from the two companies conducting their business operations in the

¹¹ AOR005.

¹² Section 3.9 of the LLC agreement for the General Partnership also generally allows CD&R to initial an Initial Public Offering of Falcon Hospice regardless of Humana’s consent if certain conditions have been met.

¹³ *Id.*

¹⁴ AOR006, fn. 7.

¹⁵ AOR006.

1 normal course.” For example, when the home health business identifies a patient who may be
2 appropriate for transition to hospice, the decision of hospice agency is made by the patient and
3 their independent primary care physician. If neither has a preference, the home health business
4 will assist with identifying a hospice agency (leaving the ultimate decision to the patient and the
5 patient’s independent physician). “The selection of a hospice agency is based on a multitude of
6 factors, including the [] agency’s licensed coverage area and capacity, is made on a case-by-case
7 basis at the patient level and is not tracked by the home health business at the corporate level.”¹⁶

8 Finally, the request contained a letter from Ronald C. Lazas, Jr., Treasurer of KAH
9 Hospice PAC, stating that both KAH Hospice and KAH Hospice PAC “concur in the facts and
10 analysis presented” in Humana’s request and “ask that the Commission conclude that Humana,
11 Inc. Political Action Committee and KAH Hospice Company Inc. PAC are no longer affiliated in
12 accordance with the applicable law and regulation.”¹⁷

13 ***Question Presented***

14 *In light of the spinoff of KAH Hospice by Humana, are Humana PAC and KAH Hospice*
15 *PAC now disaffiliated for purposes of the Act?*

16 ***Legal Analysis***

17 Yes, Humana and KAH Hospice, and their respective separate segregated funds, are now
18 disaffiliated under the Act and Commission regulations.

19 Political committees, including separate segregated funds, are “affiliated” if they are
20 established, financed, maintained, or controlled by the same corporation, labor organization,

¹⁶ *Id.*

¹⁷ AOR009.

1 person, or group of persons, including any parent, subsidiary, branch, division, department, or
2 local unit thereof. *See* 52 U.S.C. § 30116(a)(5); 11 C.F.R. §§ 100.5(g)(2), 110.3(a)(1)(ii). For
3 purposes of the Act’s contribution limits, contributions made to or by affiliated political
4 committees are considered to have been made to or by a single political committee. *See* 52
5 U.S.C. § 30116(a)(5); 11 C.F.R. §§ 100.5(g)(2), 110.3(a)(1).

6 Commission regulations identify certain committees that are *per se* affiliated, such as
7 those established, financed, maintained, or controlled by a single corporation and its subsidiaries.
8 *See* 11 C.F.R. §§ 100.5(g)(3)(i), 110.3(a)(2)(i). The Commission has previously found that a
9 parent-subsidiary relationship, and thus *per se* affiliation, is created when a parent company
10 owns a majority interest in another organization.¹⁸ Consistent with this precedent, KAH Hospice
11 is not *per se* affiliated with Humana because Humana does not own a majority interest in KAH
12 Hospice.

13 In the absence of *per se* affiliation, the Commission examines “the relationship between
14 organizations that sponsor committees, between the committees themselves, [and] between one
15 sponsoring organization and a committee established by another organization to determine
16 whether committees are affiliated.” *See* 11 C.F.R. § 100.5(g)(4)(i). Commission regulations
17 provide a non-exhaustive list of ten “circumstantial factors” to be considered “in the context of
18 the overall relationship” in order to determine whether the respective entities are appropriately
19 considered affiliated. *See* 11 C.F.R. §§ 100.5(g)(4)(i)-(ii), 110.3(a)(3)(i)-(ii).

20 The Commission considers the ten circumstantial factors in turn.

¹⁸ *See* Advisory Opinion 2003-28 (Horizon Lines) (finding *per se* affiliation where corporation owned controlling interest in LLC); *see also* Advisory Opinion 2003-21 (Lehman Brothers Holdings) (finding that minority ownership interest in corporation does not create parent-subsidiary relationship).

1 (A) *Controlling Interest*

2 This factor considers whether a sponsoring organization owns a controlling interest in the
3 voting stock or securities of the other sponsoring organization. 11 C.F.R. §§ 100.5(g)(4)(ii)(A),
4 110.3(a)(3)(ii)(A). You represent that “[n]either Humana nor KAH Hospice owns a controlling
5 interest in the voting stock or securities of the other entity.”¹⁹

6 Accordingly, the absence of such ownership weighs in favor of concluding that Humana
7 and KAH Hospice are not affiliated.

8 (B) *Governance*

9 This factor concerns whether a sponsoring organization has the authority or ability to
10 direct or participate in the governance of the other sponsoring organization or its committee
11 through provisions of constitutions, bylaws, contracts, or other rules, or through formal or
12 informal practices or procedures. 11 C.F.R. §§ 100.5(g)(4)(ii)(B), 110.3(a)(3)(ii)(B).

13 Humana holds fewer than one-third of the seats on the Board of Directors governing
14 KAH Hospice, and has only half the number of seats held by CD&R. Of the seven Members of
15 the Board of Directors, Humana appoints two while CD&R appoints four and the seventh
16 Member is the CEO of KAH Hospice.²⁰ Further, as explained above, Humana has the right of
17 approval on certain governing actions. The request explains that these are “typical ancillary
18 rights” to provide basic protection of Humana’s minority ownership while not allowing Humana
19 to exercise actual control.²¹ While these rights do indicate some influence in the governance of

¹⁹ AOR004.

²⁰ AOR002.

²¹ *See* AOR006.

1 KAH Hospice, “nothing in the [sale] or elsewhere provides Humana with any ability to initiate
2 any of those actions.”²²

3 Although Humana participates in the governance of KAH Hospice through its two
4 representatives on the seven-member Board of Directors, Humana controls less than one-third of
5 the entire Board membership. The Commission previously concluded that such minority
6 representation on the Board of Directors does not accord significant weight when analyzing
7 affiliation under this factor. *See, e.g.*, Advisory Opinion 2016-02 (Enable) at 7 (concluding that
8 representation amounting to one-quarter control of the board of directors does not “weigh
9 heavily” under the governance factor). Thus, while Humana participates in the governance of
10 KAH Hospice through its Board representatives, Humana lacks the authority to direct the
11 governance KAH Hospice or its separate segregated fund. Accordingly, this factor does not
12 weigh heavily in the Commission’s analysis.

13 *(C) Hiring Authority*

14 This factor concerns whether a sponsoring organization has the authority or ability to
15 hire, appoint, demote, or otherwise control the officers or other decision-making employees of
16 the other sponsoring organization. 11 C.F.R. §§ 100.5(g)(4)(ii)(C), 110.3(a)(3)(ii)(C). The
17 Commission previously concluded that controlling only a minority interest on the Board of
18 Directors indicated that the sponsoring organization lacked the authority to take hiring actions on
19 its own and thus this factor weighed against affiliation. *See* Advisory Opinion 2016-02 (Enable)
20 at 7; Advisory Opinion 2014-11 (HCSC) at 5. Here, although Humana holds the right of
21 approval over certain hiring actions with respect to the CEO of KAH Hospice, “it has no

²² AOR005 (emphasis in original).

1 authority to fire, demote, remove or otherwise exercise control over the CEO or any other KAH
2 Hospice personnel.”²³ Accordingly, this factor weighs against affiliation.

3 *(D) Common Membership*

4 Humana and KAH Hospice are not labor organizations, membership organizations,
5 cooperatives, or trade associations. Accordingly, this factor does not apply. *See* Advisory
6 Opinion 2016-02 (Enable) at 7-8; Advisory Opinion 2014-18 (Rayonier Advanced Materials)
7 (“Rayonier”) at 7.

8 *(E) Common Officers or Employees*

9 Factor (E) considers whether sponsoring organizations have common or overlapping
10 officers or employees, indicating a formal or ongoing relationship between the organizations. 11
11 C.F.R. §§ 100.5(g)(4)(ii)(E), 110.3(a)(3)(ii)(E). Where two organizations have no common
12 officers or employees, this factor weighs against affiliation. *See, e.g.*, Advisory Opinion 2016-02
13 (Enable) at 6.

14 Aside from the two Humana executives who serve on the Board of Directors governing
15 KAH Hospice, no current KAH Hospice officers or employees have employment relationships
16 with either Kindred at Home or Humana. Accordingly, this factor weighs against affiliation.

17 *(F) Former Officers or Employees*

18 Factor (F) concerns whether a sponsoring organization has any members, officers, or
19 employees who previously were members, officers, or employees of the other sponsoring
20 organization, indicating a formal or ongoing relationship or the creation of a successor entity. 11
21 C.F.R. §§ 100.5(g)(4)(ii)(F), 110.3(a)(3)(ii)(F).

²³ AOR005.

1 Although retaining former employees may in some circumstances indicate an ongoing
2 relationship,²⁴ the Commission has placed less emphasis on this factor when analyzing affiliation
3 of entities that have undergone significant business restructuring. The Commission has
4 determined that a company following a spin-off was not affiliated with its former parent
5 company where more than 90% of the spun-off company’s employees were former employees of
6 the parent company.²⁵ The Commission reasoned that this did not indicate a formal or ongoing
7 relationship because such employment was a “necessary consequence of a parent company
8 spinning off a business unit.”²⁶

9 Here, similarly, the former Kindred at Home employees now employed by KAH Hospice
10 were under the Humana umbrella for approximately one year. These employees appear to be “no
11 more than the necessary consequence of”²⁷ having restructured Kindred at Home to create KAH
12 Hospice as a new business entity and then spun that entity off. Under these circumstances, this
13 factor does not weigh in favor of affiliation.

14 *(G - H) Providing Funds or Goods and Arranging for the Provision of Funds or Goods*

15 Factor (G) considers whether a sponsoring organization provides funds or goods in a
16 significant amount or on an ongoing basis to the other sponsoring organization or committee. 11
17 C.F.R. §§ 100.5(g)(4)(ii)(G), 110.3(a)(3)(ii)(G). When evaluating this factor, the Commission
18 has looked at whether the entities “fund or otherwise support” each other’s SSF.²⁸ Factor (H)

²⁴ See, e.g., Advisory Opinion 2004-23 (U.S. Oncology Good Government Committee) at 7.

²⁵ See Advisory Opinion 2014-18 (Rayonier) at 7; see also, Advisory Opinion 2016-02 (Enable) at 8.

²⁶ Advisory Opinion 2014-18 (Rayonier) at 7.

²⁷ Advisory Opinion 2016-02 (Enable) at 8.

²⁸ Advisory Opinion 2012-21 (Primerica) at 9, 11 (noting entity’s lack of support for other entity’s SSF as indicating disaffiliation under factor (G)).

1 concerns whether a sponsoring organization causes or arranges for funds or goods to be provided
2 to the other sponsoring organization in a significant amount or on an ongoing basis. 11 C.F.R.
3 §§ 100.5(g)(4)(ii)(H), 110.3(a)(3)(ii)(H).

4 While Humana does hold a minority proportion (15%) of KAH Hospice’s overall debt
5 syndicate resulting from the sale (meaning Humana has no ability to control that syndicate),
6 there are no plans for it to provide additional debt or other capital funding to KAH Hospice, and
7 no plans to provide direct or indirect administrative, fundraising or other support to KAH
8 Hospice itself or to KAH Hospice PAC.

9 Accordingly, because Humana holds only a small portion of KAH Hospice’s debt
10 syndicate and does not plan to fund KAH Hospice or its PAC on an ongoing basis, these factors
11 weigh against finding that the entities are affiliated.

12 *(I) Formation*

13 This factor involves whether a sponsoring organization or committee or its agent had an
14 active or significant role in the formation of the other sponsoring organization. 11 C.F.R.
15 §§ 100.5(g)(4)(ii)(I), 110.3(a)(3)(ii)(I).

16 As described above, Humana played a significant role in the formation of KAH Hospice
17 by separating it from its subsidiary Kindred at Home and spinning it off. However, “when the
18 formation results from a completed business restructuring . . . the Commission has found that
19 this factor does not require” a finding of affiliation between the entities.²⁹ The spinoff of KAH
20 Hospice resulted in nearly complete separation of corporate leadership (the only overlap being

²⁹ Advisory Opinion 2016-02 (Enable) at 9; *see also* Advisory Opinion 2012-21 (Primerica) at 11 (concluding that corporation’s involvement in formation of a spun off company resulting in “nearly complete separation of corporate leadership and personnel” did not require finding affiliation); Advisory Opinion 2007-12 (Tyco International Management Company Employee PAC) at 7 (same).

1 the two Humana executives appointed to the Board of Directors governing KAH Hospice) and
2 complete separation of personnel (“no KAH Hospice personnel have an employment relationship
3 with Kindred at Home (or Humana) post spin off”). Given the complete separation of business
4 operations following the restructuring, , Humana’s role in the formation of KAH Hospice does
5 not require a finding that the entities are affiliated.

6 *(J) Contribution Patterns*

7 This factor pertains to whether the sponsoring organizations’ SSFs have similar patterns
8 of contributions or contributors that would indicate a formal or ongoing relationship between the
9 sponsoring organizations or committees. 11 C.F.R. §§ 100.5(g)(4)(ii)(J), 110.3(a)(3)(ii)(J).

10 After the August 2022 restructuring and through the end of 2022, KAH Hospice PAC has
11 not reported making any contributions to federal candidates or other political committees.
12 Similarly, KAH Hospice PAC has not reported receiving any contributions from KAH Hospice
13 employees over the same period.³⁰

14 The request addresses this factor by noting that both Humana and KAH Hospice make
15 their own decisions about contributions and expenditures of their separate segregated funds.
16 Neither company participates in the decision-making or day-to-day operations of the other’s SSF
17 and “any similar pattern of contributions between the two would result only from their common
18 participation in the health care industry.”³¹

19 Further, the lack of overlap in their executive and administrative personnel (aside from
20 the two Humana executives on the Board governing KAH Hospice), leaves “the vast majority of

³⁰ See KAH Hospice PAC FEC filings: October Quarterly, Pre-General Election, Post-General Election, and Year-End at <https://www.fec.gov/data/committee/C00407080/?tab=filings>

³¹ AOR004.

1 their restricted classes completely separate, all but categorically eliminating the prospect of any
2 similar pattern of contributors” to the two PACs.³²

3 Accordingly, because presently the sponsoring organizations’ SSFs do not appear to have
4 similar patterns of contributions or contributors, this factor indicates a lack of affiliation.

5 *Context of the Overall Relationship Between the Entities*

6 In considering the foregoing circumstantial factors, the Commission examines the
7 “context of the overall relationship” between the entities to determine whether they are properly
8 considered affiliated. *See* 11 C.F.R. §§ 100.5(g)(4)(i)-(ii), 110.3(a)(3)(i)-(ii).

9 In this instance, the only factors weighing in favor of affiliation are the facts that Humana
10 participates on the Board of Directors governing KAH Hospice through its two Board
11 representatives, and that it holds a right of refusal over certain Board actions in order to protect
12 its minority interest. But given that Humana holds less than one-third of the Board seats and that
13 the right of refusal is mitigated by the inability of Humana to direct or control any of these
14 actions, these facts do not weigh heavily. That neither Humana nor KAH Hospice owns a
15 controlling interest in the other, and do not have common officers or employees, weighs against
16 finding affiliation. Further, the fact that Humana has no plans to fund KAH Hospice or its PAC
17 on an ongoing basis also weighs against finding affiliation between the entities.

18 Further, it appears that any ongoing business between Humana and KAH Hospice will
19 occur in the normal course of operations between a home health care agency and a hospice
20 agency. The request states that while the home health agency may assist in finding appropriate

³² AOR004-005.

1 hospice agencies for a patient, the decision rests entirely with the patient and the patient's
2 independent physician, not with the home health agency.

3 Finally, by letter appended to the request, KAH Hospice and KAH Hospice PAC "concur
4 in the facts and analysis presented to the FEC in Humana's present request, and likewise ask that
5 the Commission conclude that Humana, Inc. Political Action Committee and KAH Hospice
6 Company, Inc. PAC are no longer affiliated in accordance with the applicable law and
7 regulation[s]." ³³

8 Accordingly, on balance, after considering the circumstantial factors in the context of the
9 overall relationship between the entities involved, the Commission concludes that Humana and
10 KAH Hospice and their SSF's are no longer affiliated.

11 This response constitutes an advisory opinion concerning the application of the Act and
12 Commission regulations to the specific transaction or activity set forth in your request.³⁴ The
13 Commission emphasizes that, if there is a change in any of the facts or assumptions presented,
14 and such facts or assumptions are material to a conclusion presented in this advisory opinion,
15 then the requestor may not rely on that conclusion as support for its proposed activity. Any
16 person involved in any specific transaction or activity which is indistinguishable in all its
17 material aspects from the transaction or activity with respect to which this advisory opinion is
18 rendered may rely on this advisory opinion.³⁵ Please note that the analysis or conclusions in this
19 advisory opinion may be affected by subsequent developments in the law including, but not

³³ See AOR009. Letter from Ronald C. Lazas, Jr., Treasurer, KAH Hospice Company, Inc. PAC.

³⁴ See 52 U.S.C. § 30108.

³⁵ See *id.* § 30108(c)(1)(B).

1 limited to, statutes, regulations, advisory opinions, and case law. Any advisory opinions cited
2 herein are available on the Commission's website.

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On behalf of the Commission,

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Dara Lindenbaum,

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Chair