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April 3, 2024

ADVISORY OPINION NO. 2024-03

Andrew Sorrell
State Auditor

Post Office Box 300200
State Capitol, Room S-101
600 Dexter Avenue
Montgomery, Alabama 36130-0200

Fair Campaign Practices Act (FCPA) /
Political Action Committee (PAC) / Political
Campaign Committee (PCC) / Use of
Campaign Funds / Investment of Campaign
Funds

The FCPA prohibits PACs and PCCs from
converting funds to personal use.

PCCs may only use campaign funds for the
specific purposes described in Ala. Code §
17-5-7.

The FCPA is silent regarding the investment
of funds provided the above restrictions are
maintained.

There is no limit provided in the FCPA on the
amount of money or the length of time that a
PAC or PCC could purchase a CD.

There is no requirement that part or all of the
money be insured by the FDIC.

In the event that the loaned money was lost,
there is not an obligation on the part of the
candidate or Chairman of the PAC to repay
the money.

There is no prohibition on the money being loaned to an entity other than a bank.

There is no prohibition on which banks or private companies a PAC or PCC could loan to outside of the restriction against the comingling of funds or conversion of funds to personal use.

There are no restrictions on the types of investments a PAC or PCC could participate in beyond buying a bank CD or loaning money to earn interest.

Dear Mr. Sorrell:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

1. Are there any limits on the amount of money or the length of time that a PAC or PCC could purchase a Certificate of Deposit (CD) to earn interest on?
2. Is there any requirement that part or all of the money be insured by the FDIC?
3. In the event that the loaned money was lost, would there be any obligation on the part of the candidate or the Chairman of the PAC to repay that money?
4. Is there any prohibition on the money being loaned to an entity other than a bank?
5. Is there any prohibition on which banks or private companies a PAC or PCC could loan to?
6. Are there any restrictions on what types of investments a PAC or PCC could participate in, beyond buying a bank CD or loaning money to earn interest?

ANALYSIS

The FCPA prohibits PACs from commingled funds with the personal funds of officers, members, or associates of the PAC.¹ PCCs are also prohibited from converting campaign funds to personal use.² However, they also may only use campaign contributions and the proceeds from investing the contributions for certain purposes.³ Outside of the above restrictions and the applicable reporting requirements, the FCPA is silent regarding the investment of funds by PACs or PCCs.

CONCLUSION

1. There is no limit provided in the FCPA on the amount of money or the length of time that a PAC or PCC could purchase a CD.
2. There is no requirement that part or all of the money be insured by the FDIC.
3. In the event that the loaned money was lost, there is not an obligation on the part of the candidate or Chairman of the PAC to repay the money.
4. There is no prohibition on the money being loaned to an entity other than a bank.
5. There is no prohibition on which banks or private companies a PAC or PCC could loan to outside of the restriction against the comingling of funds or conversion of funds to personal use.
6. There are no restrictions on the types of investments a PAC or PCC could participate in beyond buying a bank CD or loaning money to earn interest.

AUTHORITY

By 4/0 vote of the Alabama Ethics Commission on April 3, 2024.



John Plunk
Chair
Alabama Ethics Commission

¹ Ala. Code § 17-5-3.

² Ala. Code § 36-25-6.

³ Ala. Code § 17-5-7.