

## Advisory Opinions

---

March 2004

### **Credit Union PAC and Matching Charitable Gifts (FEC AO 2003-39)**

On February 6, 2004, the Federal Election Commission (FEC) issued a favorable advisory opinion to the Credit Union National Association (CUNA), its separate segregated fund, the Credit Union Legislative Action (CULAC) and the North Carolina Local Government Employees' Federal Credit Union (Local Government FCU). Advisory Opinion 2003-39 allows credit unions such as Local Government FCU that are members of CUNA, a "federation of trade associations," to match contributions to CULAC by individual credit union members with charitable donations. Under the Federal Election Campaign Act, as amended, such matching charitable contributions are considered to be permissible solicitation expenses of the PAC's connected organization or, in this case, of the collecting agent credit unions. Jan Baran and Mark Renaud of Wiley Rein & Fielding LLP, represented CUNA, CULAC and Local Government FCU in their request.

### **Bush-Cheney and Coordinated Campaign Ads (FEC AO 2004-1)**

In the first numbered Advisory Opinion of 2004, the FEC interpreted its coordination regulations. In this opinion, the FEC considered a television ad for a Republican candidate for Congress in a special election. This candidate, Kentucky state senator Alice Forgy Kerr, wanted to include in her ad video and audio of President Bush supporting her candidacy. The President's agents would review the script and ad, but the Kerr campaign was to pay for its production.

The FEC ruled that any ad that featured both Kerr and Bush, and that aired within 120 days of Kentucky's Presidential primary where Bush was a candidate, must be attributed to both candidates. If a portion of the broadcast, production and distribution costs were not attributed to the Bush campaign, then the Kerr campaign would be making an excessive in-kind contribution to the Bush campaign

## Authors

---

D. Mark Renaud  
Partner  
202.719.7405  
mrenaud@wiley.law

because the ads were coordinated.

According to the FEC, the costs needed to be divided between the campaigns based on the proportion of space and time devoted to each candidate.

Because of the language of the FEC's coordination regulations, the Kerr campaign was allowed to pay for the entire cost of similar ads that were aired more than 120 days before the presidential primary. Such ads, even without attribution, would not be in-kind contributions to the Bush campaign, according to the FEC.