

FEC Permits Unlimited Contributions to Independent Expenditure-Only PACs

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In July, the Federal Election Commission (FEC), in Advisory Opinion 2010-9, agreed with Wiley Rein LLP attorneys Carol A. Laham and D. Mark Renaud and permitted the Club for Growth to sponsor an independent expenditure-only political committee that accepts unlimited contributions from individuals. The Commission also permitted unlimited corporate contributions to such a committee when it agreed that the Club for Growth, a 501(c)(4) social welfare organization, could pay the establishment, administration and solicitation expenses of the committee. The agency's stance on the permissibility of corporation contributions was underscored in a separate advisory opinion, No. 2010-11, issued on the same day to a committee called Commonsense Ten.

The FEC's opinions follow recent judicial precedent. First, the United States Supreme Court in *Citizens United v. FEC* ruled that corporations may engage in unlimited independent communications that expressly advocate the election or defeat of clearly identified candidates (independent expenditures). Second, the United States Circuit Court of Appeals for the D.C. Circuit in *Speechnow.org v. FEC* ruled that a committee that solely engaged in independent expenditures could accept unlimited funds from individuals.

The compliance keys for independent expenditure-only political committees, as noted by the Club in its request and by the FEC in its advisory opinions, are as follows:

- The entity registers as a political committee with the FEC;
- The committee discloses all contributors of more than \$200 in a calendar year;

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- The committee does not make any contributions to any candidates;
- The committee does not engage in any communications coordinated with candidates, campaign committees, political party committees or their agents; and
- All political communications made by the committee are independent.