January 6, 2015
AO-15-02

Kevin Monteiro
Massachusetts Dental Society
Two Willow Street, Suite 200
Southborough, MA 01745

Re: PAC’s use of transmittal account in the depository system

Dear Mr. Monteiro:

This letter is in response to your recent request for guidance regarding a PAC’s use of a transmittal account after the PAC transitions into the depository reporting system.

You have stated that, when a dentist in the Commonwealth pays his or her dues to the Massachusetts Dental Society ("MDS"), the dentist may also choose to include a contribution to the Massachusetts Dental Society PAC ("MDS PAC") and/or the American Dental Society PAC, a federal PAC. Often, the contributing dentist pays his or her dues and makes the PAC contribution(s) with a single check or payment method. You indicated that, as long as the payment complies with OCPF regulations, the entire payment amount is deposited into a transmittal account. At the end of each month, the MDS PAC funds are electronically transferred from the transmittal account to the MDS PAC account, which will be a depository checking account in 2015.

**QUESTION 1**

May the MDS PAC continue to operate in this manner, i.e., may contributions be received into the transmittal account and then transferred to the PAC’s depository account?

**ANSWER 1**

Yes. If member dues and contributions are paid using the same check or method of payment, an organization accepting those payments on behalf of a PAC must first deposit the payment into a transmittal account (instead of its operating account) to prevent the organization from becoming a new PAC within the meaning of the campaign finance law.

**QUESTION 2**

When does the MDS PAC money have to be transferred from the transmittal account to the MDS PAC depository account, and when does the “deposit” occur for purposes of the campaign finance law?
ANSWER 2

The MDS PAC money must be transferred from the transmittal account to the MDS PAC depository account within seven days of the date the funds are received into the transmittal account. For purposes of M.G.L. c. 55, the deposit occurs when the money is received into the depository account. The MDS PAC would then be required to file detailed deposit reports that disclose the individual contributor information represented in each deposit.

DISCUSSION

Effective January 1, 2015, M.G.L. c. 55, § 19(a) provides that all political action committees that file with the director (other than independent expenditure PACs) must report campaign finance activity through the depository system. Accordingly, existing PACs will transition from the non-depository reporting system to the depository reporting system early in 2015.

As stated in AO-02-36, an organization that accepts contributions and membership dues via a single check (or other payment method) must first deposit that payment into a transmittal account for distribution to the organization and the organization’s PAC.1 Accordingly, if the MDS and the MDS PAC want to continue their joint practice of accepting dues and political contributions via a single payment method, the MDS and MDS PAC must employ the use of a transmittal account to accept and distribute the funds. The PAC’s transition to the depository system does not impact the continued use of the transmittal account.

However, M.G.L. c. 55, § 19(b) requires depository committees to “deposit contributions in the form received within 7 days of receipt.” The statute further states that depository committees must file detailed deposit reports by the fifth and twentieth day of each month. The deposit reports must include “(i) a list of all contributions of more than $50 deposited as of the first and fifteenth days of the month and since the last statement, including an alphabetical list of names and addresses of each person making a contribution; (ii) for a person who has made a contribution in an amount of or with a value of $200 or more in any calendar year, the occupation and employer of the contributor and the information for each contribution of less than $200 if the aggregate of all contributions received from the contributor within any calendar year is $200 or more; and (iii) a summary of all contributions of $50 or less deposited that are not itemized on the report.”

Therefore, in order to comply with §19(b), a committee in the depository system must deposit contributions into its depository account within seven days of the date the funds are received by the committee. In the circumstances you have described, many contributions from MDS members are first sent to the MDS and, as a result, are not received by the MDS PAC until they have been deposited into the MDS’s transmittal account. See AO-02-36. Because those contributions cannot be deposited into the MDS PAC’s depository account until they have first passed through the transmittal account, the MDS and/or the MDS PAC must transfer the

1 An organization that fails to use a transmittal account and instead deposits the membership dues and contributions into its operating account would have received something of value for a political purpose and, therefore, would be a PAC within the meaning of the campaign finance law.
contributions from the transmittal account to the PAC’s depository account within seven days from the date the contributions are deposited into the transmittal account. The date of the deposit is the date the contributions are received into the PAC’s depository account and, accordingly, that is the date that should be reflected on the deposit reports filed by the MDS PAC.

The MDS PAC must file detailed deposit reports disclosing all of the information required by M.G.L., c. 55, § 19(b). Therefore, the MDS PAC must keep records regarding which contributions are reflected in each deposit made by electronic funds transfer so that the PAC’s deposit reports accurately disclose the contribution amounts and relevant contributor information for each deposit. In addition, please note that the amount reported as a contribution is the gross amount intended for the PAC.

This opinion is provided within the context of the Massachusetts campaign finance law and is based solely on the basis of representations in your letter and communications with OCPF. Please contact us if you have further questions regarding this or any other campaign finance issue.

Sincerely,

Michael J. Sullivan
Director

MJS/mc