

# State of Wisconsin \ Government Accountability Board

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JUDGE MICHAEL BRENNAN  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

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## MEMORANDUM

**DATE:** For the October 5, 2009 Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared and Presented by:

Shane W. Falk, Staff Counsel

**SUBJECT:** All Children Matter: Ohio Elections Commission

### OHIO:

- In April 2008, the Ohio Elections Commission assessed a penalty of \$2.6 Million against All Children Matter's Ohio PAC and another \$2.6 Million against All Children Matter's Virginia PAC for \$870,000.00 in contributions from the All Children Matter Virginia PAC to the All Children Matter Ohio PAC for the 2006 election cycle.
- Ohio Revised Code §3517.102(B)(2)(a)(vi) prescribes a \$10,000 limit on PAC contributions to another PAC in Ohio, unless the state PAC is an affiliate of the out-of-state PAC and in that circumstance the contribution limit is not restricted.
- The Ohio Elections Commission issued an Advisory Opinion to All Children Matter on May 25, 2006, in which the Commission clarified that the unlimited contribution exception of the Ohio Revised Code only applies if the state PAC receiving out-of-state PAC funds is truly and wholly an affiliate of the out-of-state PAC.
- In considering a complaint from the Ohio Secretary of State, the Ohio Elections Commission took particular note of the fact that All Children Matter had been clearly warned about the contribution limits. The Ohio Elections Commission did not find that the All Children Matter Ohio PAC was an affiliate of the Virginia PAC and, therefore, should have been limited to receipt of \$10,000 from another PAC.
- **PENALTY:** Pursuant to Ohio Revised Code §3517.992(I)(2) prescribes a fine of an amount equal to three times the amount contributed in excess of the amount permitted by Ohio R.C. §3517.102(B)(2).

- Status as of October 5, 2009: According to the Executive Director of the Ohio Elections Commission, Phil Richter, All Children Matter did appeal the Ohio Elections Commission fines. All Children Matter neglected to include the Ohio Elections Commission as a party in the administrative appeal, so the Ohio Elections Commission filed an action in Franklin Common Pleas Court to dismiss the appeal. The Court agreed and now All Children Matter has appealed that decision to an appellate Court.
  - Nothing has been collected on the fines levied in April 2008.
  - All Children Matter and the Ohio Elections Commission have briefs due in the appellate matter in the near future.
  - After the appeals and assuming the Ohio Elections Commission is successful, the Commission will still likely have to obtain a judgment, perfect it and then attempt to collect from All Children Matter.

### **WISCONSIN:**

- There are no statutory limits for PAC to PAC contributions.
- Wisconsin does require non-resident committees and PACs to register in Wisconsin prior to making disbursements that will influence an election.
- The statutory maximum penalty for a failure to register as a PAC in Wisconsin is a \$500.00 civil forfeiture pursuant to §11.60(1), Wis. Stats. Since there is no limits for PAC to PAC contributions in Wisconsin, a failure to register is not a “contribution” violation and Wisconsin statutes do not prescribe treble civil forfeiture penalties.