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FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**AGENDA DOCUMENT NO. 16-19-A**  
**AGENDA ITEM**  
**For meeting of May 19, 2016**

May 9, 2016

**MEMORANDUM**

TO: The Commission

FROM: Daniel A. Petalas *DAP by AN*  
Acting General Counsel

Adav Noti *AN*  
Acting Associate General Counsel

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Acting Assistant General Counsel

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Attorney

Subject: AO 2016-04 (GTW-IC PAC) Draft A

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12 pm (Eastern Time) on May 18, 2016.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <http://www.fec.gov/law/draftaos.shtml>.

Attachment

1 ADVISORY OPINION 2016-04

2

3 Michael J. Barron, Jr., Esq.

4 Fletcher & Sippel LLC

5 29 North Wacker Drive

6 Suite 920

7 Chicago, IL 60606-2832

8

9 Dear Mr. Barron:

**DRAFT A**

10 We are responding to your advisory opinion request on behalf of the Grand Trunk  
11 Western Railroad Co. – Illinois Central Railroad Co. Political Action Committee concerning the  
12 application of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-30146 (“the Act”), and  
13 Commission regulations to the requestor’s proposed use of certain abbreviations for its name.  
14 The Commission concludes that the requestor may use any of the proposed abbreviations.

15 ***Background***

16 The facts presented in this advisory opinion are based on your letter received on March 9,  
17 2016, and your emails dated March 28, 2016 and March 30, 2016.

18 The requestor is the separate segregated fund (“SSF”) of Grand Trunk Western Railroad  
19 Company (“Grand Trunk”) and Illinois Central Railroad Company (“Illinois Central”).<sup>1</sup>

20 Currently, the requestor uses the abbreviation “GTW-IC PAC.”

21 Grand Trunk and Illinois Central are common carrier railroads incorporated and  
22 headquartered in the United States. Both are wholly owned by the Canadian National Railway  
23 Company (“Canadian National”), a Canadian corporation that also owns other U.S. railroads.  
24 Canadian National and its U.S. subsidiaries, including Grand Trunk and Illinois Central, operate  
25 a rail system of approximately 20,000 miles in the United States and Canada. Advisory Opinion

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<sup>1</sup> GTW-IC PAC, FEC Form 1 at 3, 6 (Feb. 26, 2016),  
<http://docquery.fec.gov/pdf/101/201602269009626101/201602269009626101.pdf>.

1 Request at AOR050. None of the other U.S. subsidiaries of Canadian National have an SSF.

2 AOR003.

3 Grand Trunk and Illinois Central have their own employees and assets, and they  
4 sometimes appear before tribunals, submit legal filings, and execute agreements as Grand Trunk  
5 and Illinois Central, respectively. AOR001, 003. But Grand Trunk and Illinois Central, like  
6 other wholly owned subsidiaries of Canadian National, “do business” under the Canadian  
7 National brand name “CN.” AOR001, 034. Grand Trunk and Illinois Central are known to  
8 “[e]lected officials, as well as local, business and community leaders who interact with the  
9 companies . . . as CN.” AOR002. They are also known as CN to their rail customers, and they  
10 are identified as CN in pleadings filed with federal agencies regulating railroads. AOR004, 006,  
11 050.

12 Further, Grand Trunk and Illinois Central are identified to the public as CN. AOR004.  
13 All of their locomotives, rolling stock, public relations materials, and corporate letterhead bear  
14 the CN logo.<sup>2</sup> AOR002. Grand Trunk and Illinois Central employees identify themselves as CN  
15 employees on their business cards and email signatures. AOR004.

16 ***Question Presented***

17 *Whether the requestor’s use of each of the following abbreviations for its name is*  
18 *permissible under the Act and Commission regulations:*

- 19 a) *CN PAC;*  
20 b) *GTW-IC-CN PAC; or*  
21 c) *GTW-IC PAC, a PAC for CN entities.*

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<sup>2</sup> The request includes photographs demonstrating the use of the CN logo on property owned by Grand Trunk and Illinois Central. AOR062-64.

1 ***Legal Analysis and Conclusion***

2 Yes, the requestor's use of each of the proposed abbreviations for its name is permissible  
3 under the Act and Commission regulations because the abbreviations would provide the public  
4 with adequate notice as to the requestor's identity and sponsorship.

5 The Act and Commission regulations require the official name of an SSF to include the  
6 full name of its connected organization. 52 U.S.C. § 30102(e)(5); 11 C.F.R. § 102.14(c); *see*  
7 *also* 11 C.F.R. § 100.6 (defining "connected organization"). An SSF established by a subsidiary  
8 may, but need not, include in its name the name of the subsidiary's parent or another subsidiary  
9 of its parent. *See* 11 C.F.R. § 102.14(c). For many purposes other than the SSF's formal  
10 registration, however, Commission regulations permit an SSF to "use" a "clearly recognized  
11 abbreviation or acronym by which the connected organization is commonly known." *Id.* An  
12 abbreviation or acronym is "clearly recognized" if it gives adequate notice to the public as to the  
13 identity and sponsorship of the SSF. *See, e.g.,* Advisory Opinion 2009-14 (Mercedes-Benz USA  
14 *et al.*) ("MBUSA") at 7 (approving use of "Daimler PAC" as abbreviated name for Daimler  
15 subsidiary's SSF); Advisory Opinion 2007-15 (GMAC) at 3 (approving use of "GMAC" in  
16 abbreviated SSF name, where GMAC was part of both subsidiary/connected organization's name  
17 and parent's name); Advisory Opinion 2004-04 (Air Transport Association of America PAC)  
18 ("AirPAC") at 2 (approving "AirPAC" as abbreviated name for SSF of trade association  
19 representing U.S. airline industry).

20 The question here is whether the requestor may use the abbreviation "CN" — the  
21 abbreviation of the two connected organizations' parent company, Canadian National — either  
22 by itself or in combination with abbreviations for Grand Trunk and Illinois Central. In a prior  
23 advisory opinion, the Commission concluded that a subsidiary's SSF may use a parent

1 company's name as its abbreviation when the parent's name would provide the public with  
2 adequate notice as to the identity and sponsorship of the SSF. *See* Advisory Opinion 2009-14  
3 (MBUSA) at 7. In that advisory opinion request, two U.S. subsidiaries of the German Daimler  
4 corporation proposed abbreviating their SSF's name as "Daimler PAC." *Id.* at 1-3. Neither of  
5 the connected organizations' full names — Mercedes-Benz USA and Sterling Truck Corporation  
6 — contained the name Daimler. *Id.* The Commission approved the use of the Daimler name  
7 alone as the abbreviation for the SSF, noting that the relationship between the connected  
8 organization and the parent corporation was "readily apparent." *Id.* at 7.

9         Similarly, in Advisory Opinion 2000-34 (SAPPI Fine Paper North America/S.D. Warren)  
10 ("SAPPI"), the Commission approved the use of a parent company's clearly recognized name as  
11 an SSF abbreviation when the subsidiary also was commonly known by that abbreviation.  
12 Advisory Opinion 2000-34 (SAPPI) at 3. The South African parent company in that advisory  
13 opinion request — SAPPI Limited — renamed its U.S. subsidiary to include the company  
14 trademark SAPPI. The Commission approved the subsidiary's request to abbreviate the name of  
15 its SSF to SAPPI PAC because the subsidiary was identified by the SAPPI trademark in public  
16 materials. *Id.*

17         The facts presented in this request are comparable to the prior advisory opinions. As in  
18 Advisory Opinion 2009-14 (MBUSA), the relationship between the differently named subsidiary  
19 and parent is "readily apparent" because the request demonstrates that Grand Trunk and Illinois  
20 Central are both commonly known as CN. For example, Grand Trunk and Illinois Central refer  
21 to themselves as CN, which is a registered trademark of Canadian National,<sup>3</sup> in their publications

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<sup>3</sup> United States Patent and Trademark Office, Trademark Electronic Search System, <http://www.uspto.gov/trademarks-application-process/search-trademark-database> (follow "Search Trademarks" hyperlink; then follow "Basic Word Mark Search (New User)" hyperlink; then search "Canadian National") (last visited April 19, 2016).

1 and before government entities. AOR002, 004, 006-46; *cf.* Advisory Opinion 2000-34 (SAPPI)  
2 at 2-3 (noting abbreviation was part of company trademark and used in “well known financial  
3 reference sources”); Advisory Opinion 1987-26 (Principal Mutual Life Insurance Company) at 2  
4 (approving use of service mark used by connected organization in identifying itself to public, but  
5 rejecting abbreviation where there was no evidence that company was known or represented to  
6 public by abbreviation); Advisory Opinion 1980-23 (Agricultural and Dairy Educational Political  
7 Trust) (determining that abbreviations “Mid-Am” and “Mid-America” were not “clearly  
8 recognizable” where abbreviations were used “ordinarily” but not in “formal writings”). They  
9 both display the CN logo on their property, such as their buildings and railroad cars. AOR004,  
10 062-64. And their employees identify themselves as CN employees on their business cards,  
11 email signatures, and letterhead.<sup>4</sup> AOR002, 004. Although Grand Trunk and Illinois Central use  
12 their own names in certain legal contexts, their use of the CN brand in the business setting as  
13 described in the request demonstrates that the CN abbreviation is a “clearly recognized  
14 abbreviation . . . by which the connected organization[s] [are] commonly known.” *See, e.g.,*  
15 Advisory Opinion 2009-14 (MBUSA) at 7.

16 The requestor’s use of the CN name is also unlikely to confuse the public about the  
17 identity of the requestor’s sponsoring organizations. No other Canadian National subsidiary  
18 operates an SSF. AOR003. And even if it did, all of the CN subsidiaries are affiliated with one  
19 another, *see* 11 C.F.R. § 100.5(g)(2), (g)(3)(i), and their affiliation is readily apparent from the

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<sup>4</sup> In Advisory Opinion 2000-34 (SAPPI), the Commission also relied on the fact that the parent company used the acronym on its website as support for its conclusion that the acronym is “clearly recognized” by the public. Here, the Canadian National website uses the CN name and logo pervasively. Canadian National, <http://www.cn.ca> (last visited April 19, 2016). Neither Grand Trunk nor Illinois Central appears to maintain its own website; those entities are subsumed within the CN site. *See, e.g.,* Canadian National, Quick Facts and Figures, <https://www.cn.ca/en/about-cn/who-we-are/facts-and-figures> (last visited April 25, 2016).

1 fact that they do business under the same CN brand name.<sup>5</sup> *Cf.* Advisory Opinion 2009-14  
2 (MBUSA) at 7 (approving use of parent corporation’s name in SSF abbreviation where proposed  
3 SSF would operate on behalf of other affiliated subsidiaries). Nor will the CN abbreviation  
4 obscure from the public any relevant information about who funds or operates the requestor:  
5 The requestor must disclose the full name and abbreviation on its statement of organization,  
6 reports filed with the Commission, and on all disclaimer notices required by the Act and  
7 Commission regulations. *See id.*; 11 C.F.R. § 102.14(c).

8 In sum, CN is a clearly recognized abbreviation by which Grand Trunk and Illinois  
9 Central are commonly known, and the inclusion of CN in the abbreviated name would give  
10 adequate notice to the public of the requestor’s identity and sponsorship. Therefore, the  
11 Commission determines that all three proposed abbreviations are permissible under the Act and  
12 Commission regulations.

13 This response constitutes an advisory opinion concerning the application of the Act and  
14 Commission regulations to the specific transaction or activity set forth in this advisory opinion  
15 request. *See* 52 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of  
16 the facts or assumptions presented, and such facts or assumptions are material to a conclusion  
17 presented in this advisory opinion, then the requestor may not rely on that conclusion as support  
18 for her proposed activity. Any person involved in any specific transaction or activity which is  
19 indistinguishable in all its material aspects from the transaction or activity with respect to which

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<sup>5</sup> Under the Act and Commission regulations, the requestor may solicit the restricted classes of the other U.S. subsidiary within the CN family, and any SSFs established by such subsidiaries would share a contribution limit with the requestor. 52 U.S.C. § 30118(b)(2)(A), (4)(A)(i); 11 C.F.R. §§ 114.3(a)(1) (stating that corporation may communicate with its restricted class on any subject), 114.5(g)(1) (permitting corporation to solicit restricted class of corporation’s subsidiaries and affiliates); *see also* 11 C.F.R. §§ 114.2(j) (definition of “restricted class”), 100.5(g) (definition of “affiliated committee”).

1 this advisory opinion is rendered may rely on this advisory opinion. *See* 52 U.S.C.  
2 § 30108(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be  
3 affected by subsequent developments in the law including, but not limited to, statutes,  
4 regulations, advisory opinions, and case law. Any advisory opinions cited herein are available  
5 on the Commission's website.

6 On behalf of the Commission,

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9  
10 Matthew S. Petersen  
11 Chairman  
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