

SUBJECT: REPORTING REQUIREMENTS AND LIMITATIONS OF NATIONAL CAMPAIGN COMMITTEE

SUMMARY:

A national party committee is not prohibited from contributing more than \$3500 to a state political party. Contributions to a political party committee are limited to \$3500. A national party committee which contributes more than \$500 during an election cycle to a state party committee is required to file a statement of organization within five days after making such contribution or transfer. A national party committee which transfers funds aggregating more than \$500 in an election cycle to a state party committee must also file the periodic certified campaign reports required by Section 8-13-1308.

QUESTION:

The Counsel to the National Republican Senatorial Committee(NRSC) requests an opinion concerning several questions. The NRSC is one of two Republican Congressional campaign committees recognized under regulations of the Federal Election Commission. In addition to supporting Republican candidates for the US Senate, the NRSC maintains a non-Federal account composed of funds not raised under the limitations and prohibitions of the Federal Election Campaign Act that have been contributed for non-Federal political purposes. The NRSC would like to transfer funds from its non-Federal account to the general, non-Federal operating account of the SC Republican Party.

DISCUSSION:

This opinion is rendered in response to a letter dated May 26, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

**1. Would a transfer of funds from a national party committee to a South Carolina state party committee (not directed or contributed to any particular state candidates) be included within the limitation upon contributions by a "person" to a "committee" in Section 8-13-1322, and thereby limited to an aggregate of \$3,500 per year?**

Section 8-13-1322 provides:

(A) A person may not contribute to a committee and a committee may not accept from a person contributions aggregating more than three thousand five hundred dollars in a calendar year.

Further, person is defined in Section 8-13-1300(25) as:

"Person" means an individual, a proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, an estate, a company, committee, an association, a corporation, club, labor organization, or any other organization or group of persons acting in concert,

In Advisory Opinion SEC AO92-013, the State Ethics Commission advised that the definition of person is very broad in encompassing any type of organization or group of persons. Thus, a federal candidate committee or national political committee would be encompassed within this definition. The Commission notes that Section 8-13-1300(23), the definition of noncandidate committee, specifically exempts political action committees that contribute solely to Federal candidates. Since there is no such exemption either in the definition of person or in the prohibition section of Section 8-13-1322, the restriction on campaign contributions would also apply to the federal candidate committee and national political committee contributing to a political party committee. No such restriction applies to contributions to the political party itself.

**2. Would the purposes for which the transferred funds are to be utilized by a state party have any bearing upon your answer to the previous question, particularly in view of Section 8-13-1316, which excludes "multi-candidate promotional expenditures" by political parties from the limitations upon contributions to candidates?**

In accordance with the response to the first question, transfers of funds from a national party committee to a state party are not subject to the restrictions contained in Section 8-13-1322(A). However, the transfer of funds from a national party committee to a state party committee, as defined in Section 8-13-1300(23) would be subject to the restrictions of \$3,500 per calendar year in accordance with the provisions of Section 8-13-1322(A).

**3. Would the Act place any limitations or restrictions upon the original sources of monies contributed to the non-federal account of a national party committee from which a transfer of funds to a South Carolina state party committee was to be made?**

There are no such limitations or restrictions in the Ethics Reform Act concerning the sources of funds contributed to the non-Federal account of a national party committee.

**4. Would a national party committee be required to file a statement of organization for making a transfer of funds to a state party committee, pursuant to Section 8-13-1304? Would a national party committee making a transfer be required to file periodic reports pursuant to Section 8-13-1308?**

Section 8-13-1304 provides in part as follows:

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...An out-of-state committee which expends more than five hundred dollars in the aggregate during an election cycle to influence the outcome of an elective office or a ballot measure must file a statement of organization with the State Ethics Commission no later than five days after making the expenditure.

Thus, Section 8-13-1304 requires an out-of-state committee(i.e., a national party committee) which expends(contributes) more than \$500 to influence the outcome of an election to file the statement or organization within five days after making such expenditure. The transfer of funds to a state party committee would be considered to be made for the purpose of influencing an election since the state party committees are established for the purpose of influencing such elections. The State Ethics Commission, therefore, advises that a national party committee which transfers funds aggregating more than \$500 in an election cycle is required to file a statement of organization within five days after making such expenditure.

Section 8-13-1308 provides in part as follows:

- (A) Upon the receipt or expenditure of campaign contributions totaling, in an accumulated aggregate, five hundred dollars or more, a candidate or committee required to file a statement of organization pursuant to Section 8-13-1304 must file an initial certified campaign report within ten days of these receipts or expenditures. However, a candidate or a committee that does not receive or expend campaign contributions totaling, in an accumulated aggregate, five hundred dollars or more must file an initial certified campaign report fifteen days before an election as provided in subsection (D).
- (B) Following the filing of an initial certified campaign report, additional certified campaign reports must be filed within ten days following the end of each calendar quarter in which contributions are received or expenditures are made, whether before or after an election.
- (C) Campaign reports filed by a candidate must be certified by the candidate. Campaign reports filed by a committee must be certified by a duly authorized officer of the committee.

Accordingly, the State Ethics Commission advises that a national party committee which transfers funds aggregating more than \$500 in an election cycle to a state party committee must also file the periodic certified campaign reports required by Section 8-13-1308.