

SUBJECT: CONTRIBUTION LIMITATIONS OF INDIVIDUALS AND PROPRIETORSHIPS

SUMMARY:

With an election cycle, no candidate or anyone acting on his behalf may solicit or accept from a "person", as defined in Section 8-13-1300(24), a contribution which exceeds three thousand five hundred dollars in the case of a candidate for statewide office or one thousand dollars in the case of a candidate for any other office. Moreover, one contribution limit shall apply to an individual as well as all proprietorships that are owned by that individual and whose contributions are directed by that individual.

QUESTION:

For the purpose of ascertaining the appropriate contribution limits, the "Hartnett for Governor" Campaign inquires whether an individual is a separate entity from sole proprietorships owned by that individual.

DISCUSSION:

This opinion is rendered in response to a letter dated March 29, 1994 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 2-17-5 et seq. and 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.

Section 8-13-1314 provides in part as follows:

(A) Within an election cycle, no candidate or anyone acting on his behalf may solicit or accept:

(1) a contribution which exceeds:

(a) three thousand five hundred dollars in the case of a candidate for statewide office; or

(b) one thousand dollars in the case of a candidate for any other office;

(2) a cash contribution *from an individual* (emphasis added) unless the cash contribution does not exceed twenty-five dollars and is accompanied by a record of the amount of the contribution and the name and address of the contributor;

(3) a contribution *from a registered lobbyist* (emphasis added) if that lobbyist engages in lobbying the public office or public body for which the candidate is seeking election;

In addition, Section 8-13-1322(A) provides that, “[a] person may not contribute to a committee and committee may not accept from a person contributions aggregating more than three thousand five hundred dollars in a calendar year.”

Section 8-13-1300(24) defines “person” as:

...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.

Section 8-13-1314(A)(1), unlike subparagraphs (A)(2) and (A)(3), does not narrow the contribution limitation to a specific class of contributors, *e.g.*, individuals. Thus, for the purposes of Section 8-13-1314(A)(1), the State Ethics Commission advises that within an election cycle, no candidate or anyone acting on his behalf may solicit or accept from a “person”, as defined in Section 8-13-1300(24), a contribution which exceeds three thousand five hundred dollars in the case of a candidate for statewide office or one thousand dollars in the case of a candidate for any other office. Nevertheless, while the definition of “person” differentiates individuals from proprietorships, the State Ethics Commission does not believe that all such entities are necessarily entitled to contribute up to the maximum amounts permitted by Section 8-13-1314(A). It is the opinion of the State Ethics Commission that permitting an individual as well as all proprietorships owned by that individual to contribute up to the maximum amount would circumvent the intent of the General Assembly as expressed in the preamble to the Ethics, Government Accountability, and Campaign Reform Act of 1991, “[w]hereas, this act is intended to reduce the influence of large contributors with specific financial stakes in matters before government ... and [w]hereas, this act is intended to improve the disclosure of contribution sources in reasonable and effective ways...”. Therefore, in an effort to achieve these objectives, the State Ethics Commission advises that one contribution limit shall apply to an individual as well as all proprietorships that are owned by that individual and whose contributions are directed by that individual.