

**SUBJECT:** REGISTERED LOBBYISTS MAY FORWARD IMPROPERLY ADDRESSED INVITATIONS TO STATE LEGISLATIVE CAMPAIGN FUND RAISING EVENTS TO THE LOBBYIST'S PRINCIPAL.

**SUMMARY:** From time to time, lobbyists inadvertently receive invitations to fund raising events for members of the SC General Assembly. This occurs when campaign staffs use the wrong mailing list (i.e. the lobbyist list) to generate the address list for invitees. The lobbyist may forward the invitation to the lobbyist's principal without comment on the merits or demerits of the invitation. This activity is ministerial and permitted as long as the lobbyist makes no comments as to the merits or demerits of the invitation.

**QUESTION:** A lobbyist inquires as to whether a lobbyist may forward an invitation to state legislative campaign fundraising events to the lobbyist's principal. From time to time the lobbyist inadvertently receives invitations to fundraisers for members of the SC General Assembly because the campaign staff uses the lobbyist's mailing list rather than the lobbyist's principal's mailing list. Under these circumstances, as long as the lobbyist is merely forwarding the invitation to the principal without comment, such activity would be characterized as a permissible ministerial act.

**DISCUSSION:**

This opinion is rendered in response to a letter dated November 7, 1995, 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 that may apply to this situation.

From time to time lobbyists inadvertently receive invitations to fundraising events for members of the SC General Assembly because the campaign staff uses a lobbyist mailing list rather than a lobbyist's principals' mailing list. S.C. Code §§ 2-17-80; 2-17-90; and 2-17-110 (1) prohibit a lobbyist from giving, among other things, anything of value to a member of the SC General Assembly (including campaign contributions); (2) restrict a lobbyist's principal from providing lodging, transportation, entertainment, food, meals, beverages, or an invitation to a function paid for by the lobbyist's principal except under the group invitation rules and properly reported campaign contributions; and (3) prohibit a lobbyist from serving as a treasurer for a candidate and a lobbyist, lobbyist's principal or a person acting on behalf of a lobbyist or lobbyist's principal from hosting events to raise funds for public officials. The latter prohibition also states that a public official may not solicit a lobbyist, a lobbyist's principal, or a person acting on behalf of the lobbyist or principal to host a fund raising event for the official.

However, the lobbyist may perform certain "ministerial functions" associated with his or her office

without violating, directly or indirectly, the foregoing prohibitions. The Ethics Act does not define the parameters of "ministerial functions".

Formerly, the Secretary of State has held, and we agree, that the following forms of conduct are "ministerial functions" related to permitted activities: (a) arrangements for mailing lists to legislative receptions; (b) printing; (c) contact with caterers; (d) drafting a letter of invitation to a function which a non-lobbyist signs and sends; and (e) providing information on the performance of members of the General Assembly to the lobbyist's principal rather than making specific recommendations regarding contributions [sending the principal a list of members of the General Assembly to receive contributions would improperly "facilitate" a contribution]. SOS Rairden, 91-023.

The notification of a contribution or actual delivery of a contribution is not a ministerial function. SOS Poliakoff, 91-016.

By analogy, we may also look to S.C. Code §8-13-740(7)(a)(Supp. 1994) which states that the representation restrictions in items (1) through (6) do not apply to "purely ministerial matters which do not require discretion on the part of the governmental entity before which the public official, etc. is appearing.

Thus, we are convinced that the Legislature intended not to curtail the lobbyist from performing the functions normally associated with his or her position but granted some leeway in which the lobbyist may function to meet the needs of his or her client.

When a person inadvertently sends a lobbyist an invitation to a function to which it is clear the sender intended to invite the principal, the lobbyist may forward the invitation to the principal without comment. Such activity is ministerial and requires no discretion.

Notwithstanding the foregoing, the Commission cautions fund raisers and lobbyists that the fact situation herein is unique and should not be subject to repetition. This opinion in no way should be construed to permit the solicitation of campaign donations from lobbyists or diminish the prohibition against the facilitation of same.