

SEC AO2001-002

September 20, 2000

SUBJECT: THE PAYMENT OF REFERRAL FEES TO LOBBYISTS BY A NEW INTERNET BUSINESS THAT WILL BE MARKETED TO LOBBYISTS' PRINCIPALS TO PROVIDE A WEB-BASED GRASSROOTS ORGANIZATION PRODUCT.

SUMMARY: An internet business developer is advised that the Ethics Reform Act is silent on the issue of internet businesses, their relationship to lobbying and the payment of referral fees to lobbyist.

QUESTION: Whether an internet business developer, who is marketing a web-based grassroots organization product through lobbyists to lobbyists' principals, may pay a referral fee to a lobbyist for a successful referral?

DISCUSSION: The State Ethics 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 of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

The Ethics Reform Act is silent on the issue of internet businesses and their relationship to lobbying. Nothing in Title 2 addresses the payment of referral fees to a lobbyist for a successful referral to a lobbyist principal. The only restriction on payment to lobbyists is found in Section 2-17-110 which prohibits a lobbyist from soliciting or accepting "compensation dependent in any manner upon the passage or defeat of any pending or proposed legislation, covered agency actions, or covered gubernatorial actions." The internet business developer, however, is only paying a referral fee based on a successful

referral by the lobbyist to the lobbyist's principal. Absent some connection to "pending or proposed legislation, covered agency actions, or covered gubernatorial actions" the referral fee is a business transaction outside the jurisdiction of the Ethics Reform Act.

CONCLUSION: Accordingly, the Commission finds that absent some connection to "pending or proposed legislation, covered agency actions, or covered gubernatorial actions" as found in Section 2-17-110(A), the referral fee is a business transaction outside the jurisdiction of the Ethics Reform Act.

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| KEY WORDS: | Lobbyist, Lobbyist's Principal |
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| ANNOTATIONS: | 2-17-110(A) |
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