

SEC AO2002-011

March 20, 2002

SUBJECT: PROCEDURES FOR CANDIDATES TO HOLD JOINT FUND-RAISERS

SUMMARY: Although not specifically addressed in the Ethics Reform Act, the Commission issues the following joint fund raising guidelines.

QUESTION: The State Ethics Commission has requested an Advisory Opinion to provide guidelines to candidates who may wish to have joint fund-raisers.

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 State Ethics Commission is mindful that the Ethics Reform Act does not address procedures for holding joint fund raising events. Some previous attempts at joint fund raising events have resulted in enforcement action for violations of campaign finance laws. Therefore, the Commission issues the following policy for administering joint fund raising events to provide for establishing a joint committee, requiring separate bank accounts, providing for the establishment of a formula for distribution of the proceeds, and setting limits on contributions and providing for the distributions of proceeds within ten days.

Accordingly, the State Ethics Commission hereby establishes as policy the following:

(A) Candidates who conduct joint fund-raising events shall select a party committee or

caucus committee to act as the fund-raising representative or shall establish a joint fund-raising committee which shall be responsible for the receipt and disbursement of all joint fund-raising proceeds.

(B) A separate account shall be established for the receipt and disbursement of all joint fund-raising proceeds. Each participating candidate shall amend their disclosure report to show the committee or account as an additional campaign account

(C) The candidates involved in the joint fund-raising shall agree to a formula for the allocation of the proceeds. Any solicitation shall contain the names of all participants; the allocation formula; and a statement that contributions may be designated for a particular participant. If the participants are engaged in a joint fund raiser to pay outstanding campaign debts, the notice shall state that the allocation may change if a participant receives enough funds to pay its debts.

(D) The maximum amount a contributor may give to a joint fund-raiser is the total amount which may be contributed to all participants without exceeding any limits. The contribution limits provided for in Section 8-13-1314 shall apply.

Section 8-13-1314 provides in part:

(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;

(E) Disbursement of the proceeds from a joint fund-raising event shall be made to the participants no later than ten days after payment of all expenses associated with the event. The treasurer of the fund-raising representative or committee shall file a campaign report detailing all contributions and expenditures in accordance with Section 8-13-1308.

(F) Each participating candidate shall account for the contributions in accordance with Section 8-13-1308 which provides in part:

(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 initial 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.

(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 until the campaign account undergoes final disbursement pursuant to the provisions of Section 8-13-1370.

(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.

(F) Certified campaign reports detailing campaign contributions and expenditures must contain:

- (1) the total of contributions accepted by the candidate or committee;
- (2) the name and address of each person making a contribution of more than one hundred dollars and the date of receipt of each contribution;
- (3) the total expenditures made by or on behalf of the candidate or committee;
- (4) the name and address of each person to whom an expenditure is made from campaign funds, including the date, amount, purpose, and beneficiary of the expenditure.

CONCLUSION: Candidates may participate in joint fund-raisers as long as they comply with the guidelines establishing a joint committee, requiring separate bank accounts, providing for the establishment of a formula for distribution of the proceeds, setting limits on contributions and providing for the distributions of proceeds within ten days. Failure to follow these guidelines may subject the candidate to a complaint for accepting an excessive contribution.

KEY WORDS: joint fund-raiser

ANNOTATIONS: 8-13-1308, 8-13-1314
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