

ADVISORY OPINION #1994-1

TO: Members, South Carolina Senate

FROM: Hugh K. Leatherman, Sr., Chairman
Senate Ethics Committee

RE: Soliciting Campaign Contributions from Registered
Lobbyist in South Carolina for Federal Congressional
Candidates who are not Legislators or State Employees and
Those who are

DATE: February 8, 1994

The committee has received two questions concerning the solicitation of campaign contributions from registered lobbyists in South Carolina for Federal Congressional candidates who are not legislators or state employees and those who are.

Question One is as follows:

Please inform me whether or not a candidate for the United States Congress who is not a state legislator or a state employee is prohibited by law from soliciting contributions from a registered lobbyist in South Carolina for the position of Congressman.

The Committee has no jurisdiction to provide an answer to Question One as it does not concern the activities of a member of the State Senate or a candidate for the office of State Senator (Section 8-13-1300(1)(b)). To the extent that Question one concerns a registered lobbyist, the State Ethics Commission is the appropriate body to advise the member.

Question Two is as follows:

Please inform me whether or not a candidate for the United States Congress who is a member or a state employee¹ is prohibited by law from soliciting contributions from a registered lobbyist in South Carolina for the position of Congressman only (i.e., not for the position of legislator).

First, the Committee quotes three (3) sections of the Code.

Section 2-17-80 states:

¹To the extent that Question Two concerns a state employee rather than a Senator, the Committee has no jurisdiction to offer advice. The inquiring member is referred to the State Ethics Commission for any opinions concerning the activities of state employees.

(A) A lobbyist or a person acting on behalf of a lobbyist shall not offer, solicit, facilitate, or provide to or on behalf of any member of the General Assembly, the Governor, the Lieutenant Governor, any other statewide constitutional officer, any public official of any state agency who engaged in covered agency actions, or any of their employees any of the following:

- (1) lodging;
- (2) transportation;
- (3) entertainment;
- (4) food, meals, beverages, money, or any other thing of value;
- (5) contributions, as defined in Section 8-13-1300(7)

(B) A member of the General Assembly, the Governor, the Lieutenant Governor, any other statewide constitutional officer, any public official of any state agency who engaged in covered agency actions, or any of their employees shall not solicit or receive from a lobbyist or a person acting on behalf of a lobbyist any of the following:

- (1) lodging;
- (2) transportation;
- (3) entertainment;
- (4) food, meals, beverages, money, or any other thing of value;
- (5) contributions, as defined in Section 8-13-1300(7).

Section 8-13-1300(7) states:

'Contribution' means a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in-kind contribution or expenditure, a deposit of money, or anything of value made to a **candidate** or Committee to influence an election or ballot measure; or payment or compensation for the personal service of another person which is rendered for any purpose to a candidate or Committee without charge. 'Contribution' does not include volunteer personal services on behalf of a candidate or Committee for which the volunteer receives no compensation from any source.

[Emphasis added].

Section 8-13-1300(4) states:

'Candidate' means a person who seeks appointment, nomination for election, or election to a state or local office, or authorizes or knowingly permits the collection or disbursement of money for the promotion of his candidacy or election. 'Candidate' does not include a person within the meaning of Section 431(b) of the Federal Campaign Act of 1976. [Emphasis added].

Read together, these sections prohibit a lobbyist from offering, and a member from soliciting, a contribution for a candidate for state or local office only. Section 8-13-1300(4) specifically excludes from the definition of "candidate" under the Ethics Act and, therefore, from coverage a person within the meaning of Section 431(b) of the Federal Election Campaign Act of 1976, i.e., persons who are candidates for federal elective office.

Therefore, the Committee concludes that nothing in the Ethics, Government, Accountability, and Campaign Reform Act of 1991 prohibits a member from soliciting a contribution from a registered lobbyist if the contribution is for federal elective office only. The Committee offers no opinion on what requirements, if any, federal election laws place on such contributions.

In rendering this opinion, the Committee assumes that the contribution is solely for federal, elective office and no part of the contribution is used by the member for the office of State Senator. The Committee further assumes that the member has not promised or implied that he will act favorably or unfavorably on any matters pending before him as a State Senator in exchange for the federal campaign contribution. Finally, the Committee assumes that the member has not used his Senate office or any other state property in soliciting contributions for, or in otherwise conducting, his federal campaign activity. The presence of any of these activities may result in a different opinion being rendered by the Committee.