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ADVISORY OPINION NO. 2000-07

The Honorable Seth Hammett
Speaker
Alabama House of Representatives
11 South Union Street
Montgomery, Alabama 36130

**Conflict Of Interests/Public Official's Name
Being Used For Charity Fund-Raisers
Organized By Lobbyists.**

The Ethics Law would not prohibit a public official's name being used for charity fund-raisers that are organized by lobbyists; provided, that lobbyists are not solicited to contribute to such charity fund-raisers.

**Conflict Of Interests/Public Official's Name
Being Used For Political Party Fund-Raisers
Organized By Political Party Officials.**

The Ethics Law would not prohibit a public official's name from being used for political party fund-raisers that are organized by political party officials; provided, that lobbyists are not solicited to contribute to the party fund-raisers.

As the Ethics Law only speaks to candidates and principal campaign committees and other campaign finance issues are covered under *The Fair Campaign Practices Act*,

inquiries into matters regarding solicitation by political parties for campaign contributions for its members should be addressed to the Attorney General's Office.

Dear Speaker Hammett:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTIONS PRESENTED

- 1) Does the Alabama Ethics Law prohibit a public official's name being used (not at the public official's request, but with the public official's approval) for charity fund-raisers that are organized by lobbyists?
- 2) Does the Alabama Ethics Law prohibit a public official's name from being used (also not at the public official's request, but with the public official's approval) for political party fund-raisers that are organized by political party officials?

FACTS AND ANALYSIS

The facts as have been presented to this Commission are as follows:

As you know, the Commission has opined extensively on the issue of fund-raising and the solicitation of lobbyists in recent weeks. Although the questions you raise are somewhat different from the earlier issue, they are still variations on that theme. On December 1, 1999, the Alabama Ethics Commission revisited Advisory Opinion No. 99-39 and concluded as follows:

"No public official (including but not limited to a member of the legislature), public employee, or group of public officials or public employees may solicit a lobbyist to contribute to a party caucus, political action committee, non-profit foundation, charitable organization, or any other group, entity or organization, as the Alabama Ethics Law prohibits the solicitation of any lobbyist to give any thing whether or not the thing solicited is a thing of value for any purpose other than a campaign contribution.

A member (whether acting in the legislator's individual capacity or as an agent or representative of a third party) of the legislature may not solicit a lobbyist to solicit contributions from other lobbyists, nor may he or she solicit a third party to solicit contributions from a lobbyist, as this would be a subterfuge of the Alabama Ethics Law.

For purposes of the Alabama Ethics Law, a campaign contribution is a contribution made to a candidate or a principal campaign committee for the purposes of directly influencing the outcome of an election."

In defining the term "candidate" Section 36-25-1(3) refers to the definition contained in Section 17-22A-2 of *The Fair Campaign Practices Act* and in defining the term "principal campaign committee" Section 36-25-5(c) likewise refers back to Section 17-22A-2.

As noted extensively in Advisory Opinion No. 99-39, Section 36-25-23(b) is the key section of the Ethics Law that is critical to the determination of this issue. Section 36-25-23(b) states as follows:

"No public official, public employee, or group of public officials or public employees shall solicit any lobbyist to give any thing whether or not the thing solicited is a thing of value **to any person or entity for any purpose other than a campaign contribution.**" (Emphasis added.)

Based on the facts as provided and the above opinion and law, it is the Commission's opinion that both questions should be answered in the negative, except as they pertain to the solicitation of a lobbyist. Such organizations, when using the name of a public official for such a solicitation, cannot solicit a lobbyist for contributions.

In the event that a lobbyist inadvertently receives such a solicitation and responds with a contribution, the party or group conducting the solicitation should immediately return the contribution to the lobbyist and remove the lobbyist's name from the mailing list.

As the Ethics Law only speaks to candidates and principal campaign committees and other campaign finance issues are covered under *The Fair Campaign Practices Act*, inquiries into matters regarding solicitation by political parties for campaign contributions for its members should be addressed to the Attorney General's Office.

CONCLUSION

The Ethics Law would not prohibit a public official's name being used for charity fund-raisers that are organized by lobbyists; provided, that lobbyists are not solicited to contribute to such charity fund-raisers.

Additionally, the Ethics Law would not prohibit a public official's name from being used for political party fund-raisers that are organized by political party officials; provided, that lobbyists are not solicited to contribute to the party fund-raisers.

As the Ethics Law only speaks to candidates and principal campaign committees and other campaign finance issues are covered under *The Fair Campaign Practices Act*, inquiries into matters regarding solicitation by political parties for campaign contributions for its members should be addressed to the Attorney General's Office.

AUTHORITY

By 4-1 vote of the Alabama Ethics Commission on January 12, 2000.



Helen Shores Lee
Chair
Alabama Ethics Commission