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March 5, 1997

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ADVISORY OPINION NO. 97-19

The Honorable Jack Page
State Representative
District No. 29, Etowah County
314 Haralson Avenue
Gadsden, Alabama 35901

Solicitation Of Thing Of Value/Legislator
Soliciting Sponsors And Selling Tickets For
A Political Party Reception.

Members of the Alabama Legislature may solicit sponsors and sell tickets to a political party reception for members of that party; provided, they shall not solicit any lobbyists to give anything whether or not the thing solicited is a thing of value for any purpose other than a campaign contribution; and provided further, that they not use their position as a Legislator to influence or attempt to influence the giving of donations. Likewise, it would be improper for a member of the Legislature to solicit a thing of value from an individual or group who had legislation pending before the Legislature.

The excess funds raised by the political party at their reception may be used for party purposes only and may not be used by or given to individual Legislators outside the election cycle allowed by law, or used in any means that would violate any other sections of law, including but not limited to, *The Fair Campaign Practices Act*.

The requestor of this opinion is advised that,

as voting laws may be involved, he should contact the Attorney General's Office and the Office of the Secretary of State.

Dear Representative Page:

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.

QUESTION PRESENTED

The Democratic Party is having a reception on the 18th of March for Democratic members of the House and Senate. What can the Legislators do to help? Since this is a "Party" function, can the Legislators solicit sponsors or sell tickets?

FACTS AND ANALYSIS

Jack Page is a member of the House of Representatives from the 29th District representing Etowah County, Alabama. As a member of the Democratic Party and based on his concerns that the provisions of the Ethics Law are followed, he has requested this Opinion.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(25) states:

"(25) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2."

Section 36-25-2(3) states:

"(3) No public office should be used for private gain other than the remuneration provided by law."

Section 36-25-23(b) states:

"(b) 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."

Section 36-25-6(a) states:

"(a) Notwithstanding any other provision of law, including but not limited to Sections 17-22A-1 to 17-22A-23, inclusive, and 13A-10-61, a candidate, public official, or principal campaign committee, as defined in Section 17-22A-2, may only accept, solicit, or receive contributions, as defined in Section 17-22A-2, to influence the outcome of an election; in addition, a candidate, public official, or principal campaign committee may not accept, solicit, or receive contributions more than 12 months before an election in which the person intends to be a candidate. The candidate may also solicit contributions for a period of 120 days after the election in which the person was a candidate, but only to the extent of any campaign debt of the candidate or the principal campaign committee of the candidate as indicated on campaign financial disclosure form or to the extent of reaching the threshold that is required for qualification as a candidate for the office which he or she currently holds. The provision of this section dealing with the campaign debt of the candidates or the principal campaign committee of the candidate shall not apply to any prior candidate or current elected official who files a verified statement of such debt with the Secretary of State on or before October 1, 1995. Said debt must have been created on or before January 1, 1995 and shall be directly related to lawful campaign expenditures. Provided, however, any candidate or elected official whose election is challenged including quo warranto challenges may then accept, solicit and receive campaign contributions for the purpose of paying all expenses associated with the election challenge."

In Advisory Opinions 96-57 and 96-101 previously issued by the Ethics Commission, the Commission has held that members of the Third Division Highway Chapter of the Alabama State Employees Association and the State Capitol Police may solicit things of value from individuals or businesses that they do not directly inspect, regulate, or supervise in their official capacity, when the solicitation is done for a charitable organization, and where there is no personal gain to the public employee and no influencing of official action.

These Opinions further held that these groups could not solicit a thing of value from a vendor who does business with the State Capitol Police, a lobbyist, or the Department of

Transportation, respectively.

The Alabama Ethics Law specifies that no public employee or public official may solicit anything regardless of whether or not it is a thing of value from a lobbyist other than a campaign contribution. Therefore, it is clear that Legislators may not solicit lobbyists to make donations or purchase tickets to this political party reception.

Likewise, it would be improper for a member of the Legislature to solicit a thing of value from an individual or group who had legislation pending before the Legislature.

Should the reception be successful and should excess monies be raised by the political party, it is important to point out that those monies may be retained by the political party and used for political party purposes only, and may not be given to individual candidates or otherwise used by individual candidates outside the election cycle as allowed by law.

CONCLUSION

Members of the Alabama Legislature may solicit sponsors and sell tickets to a political party reception for members of that party; provided, they shall not solicit any lobbyists to give anything whether or not the thing solicited is a thing of value for any purpose other than a campaign contribution; and provided further, that they not use their position as a Legislator to influence or attempt to influence the giving of donations. Likewise, it would be improper for a member of the Legislature to solicit a thing of value from an individual or group who had legislation pending before the Legislature.

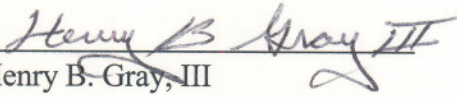
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AUTHORITY

By 4 - 0 vote of the Alabama Ethics Commission on March 5, 1997.


Henry B. Gray, III
Vice Chair in the absence of the Chair
Alabama Ethics Commission