

Number: A0-97-08-CD Part 2

Requested by: Ken Jacobus, Attorney

On behalf of: Republican Party of Alaska

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Subject: The application of the corporate prohibition to the Republican Party of Alaska ("RPA"), a non-profit corporation.

On November 5, 1997, the Commission adopted the following advisory opinion by a vote of 5-0.

This letter responds to a question you raised in a request for an advisory opinion on January 8, 1997 regarding the application of the corporate prohibition to the Republican Party of Alaska ("RPA"), a non-profit corporation.

Summary

The prohibition against corporate contributions to candidates in AS 15.13.074(f) does not apply to the RPA because the RPA is specifically recognized as a political group authorized to make contributions under the campaign disclosure law and because it is incorporated for liability purposes only.

The Law

AS 15.13.400(5). "[G]roup" means

(A) every state and regional executive committee of political party; and

(B) any combination of two or more individuals acting jointly who organize for the principal purpose to influence the outcome of one or more elections

AS 15.13.400(10). "[P]olitical party" means

(A) an organized group of voters that represents a political program and that nominated a candidate for governor who received at least three percent of the total votes cast at any one of the last five preceding general elections for governor

AS 15.13.065. Contributions. (a) Individuals, groups, and political parties may make contributions to a candidate. . . .

AS 15.13.074. Prohibited Contributions. (a) A person or group may not make a contribution if the making of the contribution would violate this chapter. . . .

(f) A corporation, company, partnership, firm, association, organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group in AS 15.13.400 may not make a contribution to a candidate or group.

Analysis

You indicate that the RPA is "a non-profit corporation, incorporated for the purposes of protecting its officers, directors, and members against liability claims." Despite the RPA's corporate status, you assume that "for the purposes of the Act, it does not matter whether the Republican Party is incorporated or not." You ask for confirmation that this is correct.

You are correct. As a political party group specifically recognized under the campaign disclosure and election law and which is incorporated for liability purposes only, the RPA is not subject to the prohibition on corporate contributions. This conclusion is consistent with the language and intent of the statute.

First, the RPA may make contributions because it is a "group" under AS 15.13. AS 15.13.074(f) states that "[a] corporation, company, partnership, firm, association, organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group in AS 15.13.400 may not make a contribution to a candidate or group." "Groups" are defined as two or more individuals who organize primarily to influence the outcome of an election and who take action to do so. Because political parties satisfy the definition of "group" in AS 15.13.400, they are not prohibited from making contributions by AS 15.13.074(f).

Further, the statute specifically recognizes the right of political party groups to make contributions up to a limited amount. This recognition is consistent with the parties' primary mission to elect candidates who represent the political philosophies of their memberships. To this end, parties support the campaigns of state and federal candidates, both directly and indirectly:

- by providing a party headquarters, staff, and materials for candidates
- by sponsoring polls, get-out-the vote and voter registration drives, and fund raisers, and
- by making direct contributions to candidates.

AS 15.13 permits all these activities.

This conclusion is consistent with federal regulations on the subject. According to federal guidelines, "[i]f a party committee incorporates for liability purposes only, its outgoing contributions and other expenditures are not subject to the prohibition on corporate contributions and expenditures." FEC Campaign Guide for Political Party Committees at 6. This position is codified in federal regulation. 11 CFR 114.12(a) ("An organization may incorporate and not be subject to the provisions of this part if the organization incorporates for liability purposes only, and if the organization is a political committee as defined in 11 CFR 100.5.").

Conclusion

The prohibition against corporate contributions to candidates in AS 15.13.074(f) does not apply to the RPA which is incorporated for liability purposes only. The RPA is specifically recognized as a political group authorized to make contributions under the campaign disclosure law.

The advise in this opinion applies only to the specific activity for which the advice was requested.