

SUBJECT: CONTRIBUTION LIMITS OF PARTNERSHIPS AND CORPORATIONS

SUMMARY:

Within an election cycle, a partnership may contribute \$3,500 to a candidate for statewide office. Based on the facts presented, two separately incorporated corporations are different "persons" for the purposes of computing the contribution limitations. Since the corporations have distinct and separate business purposes, the corporations possess separate contribution limits, and each may contribute \$3,500 within the same election cycle to the same candidate for statewide office.

QUESTION:

To ascertain the appropriate contribution limits, an attorney in a general partnership, constituted under the laws of South Carolina, (the "Partnership") requests an advisory opinion regarding the following factual scenario. A corporation ("Corporation A") was organized under the laws of South Carolina many years ago and presently conducts title insurance business in South Carolina. It derives business revenue from the sale of title insurance to third parties who usually are not partners of the Partnership. Corporation A has a tax identification number different from that of the Partnership. The Partnership owns all outstanding stock of Corporation A. A second corporation ("Corporation B") was organized under the laws of South Carolina several years ago for the purpose of owning property and leasing it to the Partnership. Corporation B derives all of its income from this lease. Corporation B has a federal tax identification number that is different from that of the Partnership. A majority, but not all, of the shareholders of Corporation B are partners of the Partnership.

DISCUSSION:

This opinion is rendered in response to a letter dated October 6, 1994 requesting an opinion from the State Ethics Commission. The 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). This opinion does not supersede any other statutory or regulatory restrictions or procedures that may apply to this situation.

1. Within an election cycle, may the Partnership make a contribution of \$3,500 to a candidate for statewide office?

Section 8-13-1314 provides in part as follows:

(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;

(2) a cash contribution **from an individual** unless the cash contribution does not exceed twenty-five dollars and is accompanied by a record of the amount of the contribution and the name and address of the contributor; (Emphasis added.)

(3) a contribution **from a registered lobbyist** if that lobbyist engages in lobbying the public office or public body for which the candidate is seeking election; (Emphasis added.)

Likewise, Section 8-13-1322(A) provides that "[a] **person** may not contribute to a committee and a committee may not accept from a **person** contributions aggregating more than three thousand five hundred dollars in a calendar year." (Emphasis added.)

Section 8-13-1300(25) defines "person" as :

... an individual, a proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, an estate, a company, committee, an association, a corporation, club, labor organization, or any other organization or group of persons acting in concert.

The State Ethics Commission notes that Section 8-13-1314(A)(1), unlike subparagraphs (A)(2) and (A)(3), does not narrow the contribution limitation to a specific class of contributors, *e.g.*, individuals. Thus, for the purposes of Section 8-13-1314(A)(1), the Commission advises that within an election cycle, no candidate or anyone acting on his behalf may solicit or accept from a "person", as defined in Section 8-13-1300(24), a contribution that exceeds \$3,500 in the case of a candidate for statewide office or \$1,000 in the case of a candidate for any other office. Accordingly, since the term "person" includes partnerships, it is the Commission's opinion that within an election cycle, the Partnership may contribute \$3,500 to a candidate for statewide office.

2. May Corporation A and Corporation B each make a contribution of \$3,500 to the same candidate for statewide office within the same election cycle as applicable to question 1?

The issue here is whether the corporations' affiliation with the Partnership affects their ability to make contributions up to the limits specified in Section 8-13-1314(A). The Commission notes that

some states, by statute, treat contributions made by two or more corporations as having been made by one person if there are significant indicia of control common to both corporations, *e.g.*, parent-subsidary relationship, common officers or directors, or control by the same majority shareholder(s). The Ethics, Government Accountability, and Campaign Reform Act of 1991, however, contains no such provisions under which two or more corporations are deemed to share a single contribution limit. Accordingly, based on the facts presented, Corporation A and Corporation B appear to be separate "persons" as defined in Section 8-13-1300(24). Therefore, since Corporation A and Corporation B have distinct and separate business purposes, it is the opinion of the State Ethics Commission that Corporation A and Corporation B have separate contribution limits, and each may contribute \$3,500 within the same election cycle to the same candidate for statewide office.