

SUBJECT: VARIOUS REGISTRATION REQUIREMENTS; PROHIBITED AND PERMITTED ACTS OF A PAC

SUMMARY: A Political Action Committee (PAC) must file a Statement of Organization within five days after receiving or expending \$500. A Campaign Disclosure Form must be filed within ten days after reaching the \$500 threshold. The statute does not prescribe the organizational structure of a committee.

QUESTION:

A request questions the manner and method of formulating, operating, receiving and disbursing funds to and from a PAC (Political Action Committee). The requestor made eight specific inquiries which are restated here with the appropriate reply.

DISCUSSION:

This opinion is rendered in response to a letter dated June 27, 1995, 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 8-12-100 et. seq., as amended, 1976, Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. The relevancy of this opinion is entirely dependent on full disclosure of all material facts. Any deviation from the facts presented, omissions or misstatements of material facts voids the safe harbor provided by this opinion.

Question One: In forming a political action committee, all that is required is a Campaign Disclosure Form. No Statement of Economic Interests is required.

Answer: A South Carolina based PAC that receives or expends more than \$500.00 in the aggregate during an election cycle to influence the outcome of an elective office or ballot measure must file a Statement of Organization no later than 5 days after receiving the contribution or making the expenditure that exceeds \$500.00. The Statement of Organization must be certified by the PAC's chair and its treasurer. S.C. Code §8-13-1304 and §8-13-1306. A Campaign Disclosure Form must be filed within ten days of the committee either receiving or expending \$500.00.

Question Two: A political action committee need not incorporate.

Answer: There is no statutory requirement regarding the organizational structure of a PAC.

Question Three: A political action committee (PAC) does not have to furnish, or even have for

internal purposes, any by-laws, constitution or other documents, except for the Campaign Disclosure Form.

Answer: See the answer to question two.

Question Four: The minimum number of trustees is two. These trustees may serve as chairman, treasurer, and custodian of accounts. One trustee can hold two of these positions.

Answer: A PAC, which is included in the act's definition of "committee" in S.C. Code §8-13-1300(6), must have a chair and a treasurer. S.C. Code §8-13-1306(A)(6).

Question Five: A trustee and/or officer of a PAC may receive money from that PAC as a candidate for public office.

Answer: Subject to other restrictions, a PAC may contribute to state and local candidates, committees, and political parties and make independent expenditures.

Question Six: The executive director of a PAC may also be a trustee, an officer, and a candidate receiving money from the PAC. The executive director may also receive compensation from the PAC serving in the capacity of executive director.

Answer: See the answer to question five.

Question Seven: A trustee of one committee can be a trustee of another PAC. There are no limits as to the number of committees a trustee can serve. A person serving as an officer of one committee may serve on an unlimited number of committees as an officer. A person serving as the executive director of one committee may also serve as the executive officer of an unlimited number of committees.

Answer: See the answer to question two.

Question Eight: In other words, if I want to create 1000 political action committees, be a trustee of each of them, be an officer for each of them, and be the executive director for all or some of them, and receive compensation as the executive director for my services, that this is all legal. In addition, each of these PACs could offer me up to \$1000 for any public candidacy I choose to enter, so long as the contribution is consistent with the purposes of that PAC.

Under this scenario, I could receive a million dollars in campaign contributions from 1000 PACs which I have direct control. In addition, I could be receiving unlimited income as the executive director of these PACs as authorized by them individually.

Answer: See the answer to question two.

The Commission is obligated to advise, however, that it retains the inherent jurisdiction to

investigate, prosecute, and seek criminal prosecution of plans, schemes and devices sought to be used and used to evade the proscriptions of the Ethics Act.