

INFORMAL OPINION IO-1994-007
ISSUED SEPTEMBER 6, 1994

I received your request for an informal opinion on the following question:

Does it violate the Constitutional Ethics Rules for a candidate to enter into a fund raising agreement with _____ [the "Corporation"] whereby the Corporation receives 100% of the funds from which it distributes to Independent Marketing Associates 10%, and the committee 30%?

A copy of the fund raising agreement to be offered between the Corporation, and a reporting committee is attached.

A committee is defined in the rules as follows:

"**Committee**" means a candidate committee, political action committee, or party committee.

[257:1-1-2]

The following rules govern solicitations by committees:

(d) **Prohibitions relating to committee solicitations and funds.** It shall be prohibited for:

(1) a political action committee to accept a contribution or make an expenditure by using anything of value secured:

(A) by physical force, job discrimination, financial reprisals, or threat of the same; or

(B) by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, unless the making of such contributions is authorized by the organization's members;

(2) a person to solicit a contribution from an employee in exchange for any advantage or promise of an advantage conditioned upon making a contribution, or reprisal or threat of reprisal related to the failure to make a contribution;

(3) a corporation or political action committee of a corporation to solicit contributions to the political action committee from a person other than its shareholders, directors, executive and administrative personnel, and their families; and

(4) corporate contributions to a committee or person for or against a ballot measure to be commingled with a fund established by such person or committee to contribute to candidate committees or committees which support or oppose candidates.

Constitutional Ethics Rules 1994, 257:10-1-2(d)

An additional provision was considered by the Commission that would have read:

It shall be prohibited for a political committee to receive a contribution or make an expenditure by using anything of value secured by monies obtained in a commercial transaction;

Since this provision was not adopted and nothing in the rules on solicitations [supra] prohibits this method of fundraising, it is my opinion that committees are not prohibited from entering into the attached contract for the purpose of raising funds to support or oppose state campaigns. Please be aware, however, that the above rule may be considered again; therefore, I would advise you to consult with this office before offering the contract to committees for elections after calendar year 1994.

CONCLUSION

It is therefore staff's opinion that pursuant to Title 257:10-1-2(d), committees, as defined in 257:1-1-2, are not prohibited from entering into a fund raising agreement with the Corporation whereby the Corporation receives 100% of the funds from which it distributes to Independent Marketing Associates 10% and to the committee 30%, and that the 30% collected by the committee may be used to support or oppose state candidates or ballot measures.

Please be aware that informal opinions are not official pronouncements of the Commission. Hence, this letter carries no greater weight than the views of any other citizen. The Commission is available to issue interpretations on matters arising from the Ethics Commission Act and the Constitutional Ethics Rules. These are known as Ethics Interpretations. They are official and bind the future action of the Commission.