

STATE OF COLORADO

Department of State

Civic Center Plaza
1560 Broadway, Suite 200
Denver, CO 80202-5169



Donetta Davidson

Secretary of State

William A. Hobbs

Deputy Secretary of State

December 17, 2003

Hon. Rob Fairbank
State Representative
Colorado House of Representatives
200 E. Colfax Ave., Room 271
Denver, CO 80203

Re: Advisory opinion concerning segregation of contributions from corporations and labor organizations to political committees

Dear Representative Fairbank:

I am writing in response to your inquiry dated November 3, 2003, in which you requested an opinion concerning contributions to political committees by corporations and labor organizations. Please be advised that this opinion is advisory only, and that it is limited to the facts presented.

Question presented:

Is a political committee required to segregate the contributions it receives from corporations and labor organizations from the contributions it receives from natural persons?

Answer:

For the reasons that follow, it is my opinion that the answer is "No". There is no provision in the constitutional and statutory provisions governing campaign and political finance that requires a political committee to segregate contributions from corporations or labor organizations from any other contributions.

Discussion:

Campaign and political finance is governed by Article XXVIII of the Colorado Constitution and by Title 1, Article 45, C.R.S. (the Fair Campaign Practices Act, or "FCPA"). Section 4 (a) of Article XXVIII prohibits a corporation or labor organization from making a contribution to a candidate committee or a political party as follows:

Section 3. Contribution limits. (4) (a) It shall be unlawful for a corporation or labor organization to make contributions to a candidate committee or a political party, and to make expenditures expressly advocating the election or defeat of a candidate; except that a corporation or labor organization may establish a political committee or

small donor committee which may accept contributions or dues from employees, officeholders, shareholders, or members.

There is no express prohibition in Article XXVIII on contributions from corporations or labor organizations to a political committee. Furthermore, the FCPA expressly provides that corporations and labor organizations may make contributions to political committees, as follows:

1-45-103.7. Contribution limits. Nothing in article XXVIII of the state constitution or this article shall be construed to prohibit a corporation or labor organization from making a contribution to a political committee.

However, Article XXVIII, Section 3(5) limits the amount that any “person” may contribute to a political committee as follows:

Section 3. Contribution limits. (5) No political committee shall accept aggregate contributions or pro-rata dues from any person in excess of five hundred dollars per house of representatives election cycle.

Finally, Article XXVIII, Section 2(11) defines “person” as follows:

Section 2. Definitions. For the purpose of this article and any statutory provisions pertaining to campaign finance, including provisions pertaining to disclosure:

(11) "Person" means any natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons. (Emphasis added.)

Reading all of these provisions together, it is apparent that a corporation or labor organization may contribute to a political committee, subject to the contribution limit set out by Article XXVIII, Section 3(5). Nothing in Article XXVIII or the FCPA speaks to the segregation of contributions from corporations and labor organizations from contributions from natural persons. Once a corporation or labor organization makes a contribution to a political committee, the contribution becomes part of the political committee’s funds, and the contribution is no longer “corporate funds” or “labor funds”.

Conclusion:

It is my opinion that there is no constitutional or statutory requirement that a political committee segregate corporate and labor organization contributions from those contributions the political committee receives from natural persons or other persons.

I hope that you will find this response helpful. If we can be of further assistance, please do not hesitate to contact this office.

Sincerely,



Donetta Davidson
Secretary of State