

STATE OF COLORADO

Department of State

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Gigi Dennis
Secretary of State

William A. Hobbs
Deputy Secretary of State

June 28, 2006

John S. Zakhem, Esq.
Doyle Zakhem Suhre & Lilly, LLC
700 17th Street, 20th Floor
Denver, CO 80202

Re: Lieutenant Governor Candidates

Dear Mr. Zakhem:

You have asked this office for guidance on the application of campaign finance law to lieutenant governor candidates. Specifically, you have asked whether an individual who has been identified as a major political party “candidate” for lieutenant governor *before* the primary election may contribute to the candidate committee for governor as a “candidate” (*i.e.*, in unlimited amounts if not bound by the voluntary spending limits in Article XXVIII, § 4, Colorado Constitution) *now*, before the primary election. You have also asked if such individuals (again, persons who have been identified as major political party “candidates” for lieutenant governor *before* the primary election) must file candidate disclosure forms *now*, before the primary election. We respond as follows.

Article XXVIII, § 2(2) states that a “candidate” is any person who seeks nomination or election to any state or local public office that is to be voted on in this state at any primary election, general election, school district election, special district election, or municipal election. A person is a candidate for election if the person has publicly announced an intention to seek election to public office or retention of a judicial office and thereafter has received a contribution or made an expenditure in support of the candidacy.

A major political party candidacy for lieutenant governor is unique in that it arises only after the major political party selects its candidate for governor. Under §1-4-502(3)(a), C.R.S. (2005), the nomination of a major political party candidate for lieutenant governor shall be made by the party’s candidate for governor not later than seven days following the primary election. In turn, a person who is nominated as the major political party candidate for lieutenant governor under this provision must file a written acceptance of the nomination with the Secretary within 30 days after the primary; otherwise the nomination is treated as a vacancy. §1-4-502(3)(c), C.R.S. (2005).

This Office construes Article XXVIII, § 2(2) and §1-4-502(3), C.R.S. (2005), together to mean that a major political party candidate for lieutenant governor is not a “candidate” for that office until that person is formally selected as a candidate by the major political party’s candidate for governor and has thereafter publicly announced his or her acceptance of the nomination. This

process cannot occur until the major political party has formally selected its candidate for governor at the primary election. Thus, an individual who has been publicly identified as a major political party "candidate" for lieutenant governor is not in fact a candidate unless and until (1) the major political party has formally chosen its candidate for governor; (2) that governor candidate has formally selected the identified individual as the lieutenant governor candidate; and (3) the individual has accepted the nomination.

Until such an individual becomes a major political party candidate for lieutenant governor in the manner described above, that individual does not file candidate disclosure forms, and any contributions made by that individual to the governor candidate committee would be subject to the contribution limits in Article XXVIII, § 3. Further, that individual cannot accept contributions separately as a lieutenant governor candidate, and any campaign-related expenditures made by that individual must be paid by the gubernatorial candidate committee, treated as contributions by that individual to such candidate committee, or reported as independent expenditures by that individual.

Once the individual becomes a major party candidate for lieutenant governor as described above, he or she must comply with the disclosure and reporting requirements of Article XXVIII and C.R.S. Title 1, Article 45. Such an individual may, at that point, contribute as a "candidate" to the governor and lieutenant governor joint candidate committee for the general election. Contributions to the joint candidate committee are subject to limits as provided in Article XXVIII, but personal funds contributed by the lieutenant governor candidate to the joint candidate committee are not subject to the contribution limits, unless the joint candidates accept voluntary spending limits. (See Rule 4.6 of the Secretary of State's Rules Concerning Campaign and Political Finance.)

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,



William A. Hobbs
Deputy Secretary of State