

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

September 21, 1994

WALTER J. HICKEL, GOVERNOR

REPLY TO:

2221 E. NORTHERN LIGHTS, ROOM ANCHORAGE, ALASKA 99508-4149

PHONE: (907) 276-4176

FAX: (907) 276-7018

P.O. BOX 110222

JUNEAU, ALASKA 99811-0222

PHONE: (907) 465-4864

FAX: (907) 465-4832

Senator Drue Pearce
Michael F.G. Williams
6035 Tanaina Drive
Anchorage, AK 99502

Re: Advisory Opinion Request

Dear Senator Pearce and Mr. Williams:

At its meeting on September 13, 1994 the Alaska Public Offices Commission (Commission) considered staff's proposed advisory opinion of July 29, 1994. The Commission adopted staff's proposed advisory opinion by a vote of 5-0.

I enclose a copy of that opinion. Please be aware that different facts, or a change in the facts, could lead to a different Commission position. Further, you or another person cannot rely on this advisory opinion unless the specific transaction is indistinguishable all its material aspects from the facts as set forth in the opinion.

Please contact us if you have any questions.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Brooke Miles
Juneau Branch Administrator

cc: ~~A~~POC Members
JKaren Boorman, Executive Director
Nancy Gordon, Assistant Attorney General
APOC Senior Staff

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

WALTER J. HICKEL, GOVERNOR

REPLY TO:

CJ 2221 E. NORTHERN LIGHTS, ROOM 128
ANCHORAGE, ALASKA 99508-4149
PHONE: (907) 276-4176
FAX: (907) 276-7018
P.O. BOX 110222
JUNEAU, ALASKA 99811-0222
PHONE: (907) 465-4864
FAX: (907) 465-4832

July 29, 1994

Senator Drue Pearce
Michael F.G. Williams
6035 Tanaina Drive
Anchorage, AK 99502

Dear Senator Pearce and Mr. Williams:

You have both asked the Alaska Public Offices Commission (Commission) for an advisory opinion regarding Michael Williams's participation in various aspects of the Drue Pearce Senate Campaign (Campaign). As this advisory opinion request addresses the activities of a registered lobbyist in a state legislative campaign, this letter will address Mr. Williams as "you" and Senator Pearce as "Senator."

SHORT ANSWER

You may not participate in any fund-raising aspects of or exercise the final decision-making authority or day-to-day control over any legislative campaign.

FACTS

1. You are a registered lobbyist. You filed a lobbyist registration on January 7, 1994 disclosing that you had a contractual agreement with Chugach Alaska Corporation to provide lobbying services as well as economic evaluation services, indicating your compensation would be \$65 per hour. For the January - May reporting periods you disclosed receiving \$4500 in lobbying fees and \$1257 in reimbursement for expenses connected with lobbying services.¹
2. You married the Senator in 1993, and she is now a candidate for Senate seat F.
3. The Senator expects you to be actively involved in most facets of her campaign. You are a member of the Senator's "kitchen cabinet," a team of advisors she relies upon during campaigns and during legislative sessions. You are also the director and statistician of the Campaign's "war room" when undertaking tracking polling, and are generally relied upon to keep campaign staff and volunteers sane during the campaign.

¹Compensation at \$65 an hour for 69 hours would result in compensation of \$4485.

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Under AS 24.45.121 (a)(8) a registered lobbyist may not serve as a campaign director or manager, a treasurer or deputy treasurer, on a finance or fund-raising committee, host a fund-raising event or actively engage in the fund-raising activities of a legislative campaign if the lobbyist has registered during the calendar year.

Under adopted regulation 2 AAC 50.545(g) a "campaign manager or director" includes a person who, aside from the candidate, has the final decision-making authority or day-to-day control over a legislative campaign or campaign fund-raising.²

Under adopted regulation 2 MC 50.545(h) a "treasurer or deputy treasurer" is a person authorized by a legislative candidate to receive, hold or disburse campaign funds or goods.

Under adopted regulation 2 AAC 50.545(i) "actively engage in the fund-raising activities of a legislative campaign" means serving as an officer or in any fund-raising capacity for a controlled event or group or soliciting, collecting, accepting or delivering campaign funds or goods.

Under 2 AAC 50.905(b), Commission staff will not consider an advisory opinion request that poses a hypothetical situation or concerns the activities of third parties.

Although the Lobbying Law (AS 24.45) contains specific exemptions concerning spouses and family members in other sections, such as the gift section (AS 24.45.151 (3) and (4), 2 MC 50.542), no similar exemption exists concerning the prohibitions in AS 24.45.121 (a)(8) other than the legislative intent language which states the prohibitions do not apply to the spouse of a lobbyist.

DISCUSSION

For the purposes of clarity this letter will consider each of your questions separately.

20n June 4, 1993, the Alaska Public Offices Commission adopted regulations interpreting the most recent amendments to the lobbying law. Although these regulations do not yet have the force of law because they are pending review by the Department of Law, they provide valuable guidance to the Commission's interpretation of the statute.

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1. MAY YOU HOST OR ATTEND ANY OF THE SENATOR'S FUNDRAISERS AT YOUR HOME?

Answer: You may attend but not host a fundraiser for the Senator in your home. AS 24.45.121 (a)(8) specifically prohibits you from hosting a fundraiser for any state legislative candidate. However, other people (who are not registered lobbyists) may host a fundraiser for the Senator in your home. Although nothing in the Lobbying Law (AS 24.45) prohibits you from attending any of the Senator's fundraisers, your participation in her fundraisers is limited as explained in the responses to questions 5 and 6.

2. MAY YOU HOST OR **ATTEND A** FUNDRAISER FOR A CANDIDATE FOR THE U.S. HOUSE OF REPRESENTATIVES?

Answer: Yes. Nothing in the Lobbying Law prohibits you from hosting or attending any fundraiser for any candidate of the U.S. House of Representatives.

3. MAY YOU HOST OR **ATTEND A** FUNDRAISER FOR **THE** SENATE REPUBLICAN CAMPAIGN COMMITTEE?

Answer: Yes. Nothing in the Lobbying Law prohibits **you** from hosting or attending any fundraiser for this subcommittee of the Republican Party of Alaska. You should be aware that the "ear-marking" of any funds raised by a political party or any of its subdivisions is a violation under the Campaign Disclosure Law, AS 15.13.120(a)(4).

4. MAY YOU HOST OR **ATTEND** FUNDRAISERS FOR OTHERS?

Answer: You may not host a fundraiser for a candidate for the state legislature. If you are contemplating **hosting** a fundraiser that you are not confident is permissible under law, you should request specific advice for the event. Under 2 MC 50.905(b) hypothetical situations may not be addressed in an advisory opinion.

5. WHICH CLERICAL FUNCTIONS MAY YOU PERFORM FOR THE CAMPAIGN?

Answer: Language concerning the intent of the legislation enacting AS 24.45.121 (a)(8) specifically allows a lobbyist to serve as a campaign volunteer. You are therefore permitted to perform clerical or courier functions on behalf of the Campaign as long as you **do** not take an active role in any aspect of campaign fund-raising or have the "final decision-making authority or day-to-day control over the campaign or its fund-raising efforts."

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You may also rely upon the advisory opinion issued on April 1, 1994 to Mitchell D. Gravo to the extent that your activity is indistinguishable in all material aspects from the activity described in the opinion. A copy of that opinion is enclosed for your guidance. As explained in the answer to the third question in that opinion, once the details of a fund-raising event have been determined you could prepare invitations, deliver invitations to the printer, pick up invitations from the printer and address and mail invitations. "Prepare invitations" does not include composing the contents, but rather means performing the ministerial function of copying words and phrases which others have finalized.

6. WHICH DETAILS FOR A FUNDRAISER MAY YOU HELP **DETERMINE?**

Answer: None. As explained in the answers to the third and fourth questions in the enclosed Gravo advisory opinion, you may not interact with the Senator or a staff member of the Campaign to determine the details of fund-raising efforts. This includes paying for the printing or distribution of invitations and having your name appear on them. AS 24.45.121 (a){8} specifically prohibits you from participating in the fund-raising activities of a state legislative campaign.

7. DO THE RESTRICTIONS APPLY TO YOUR BEHAVIOR ONLY WHEN YOU **ARE** ACTING ON BEHALF OF A **CLIENT?**

Answer: No. Your status as a registered lobbyist places the restrictions on your involvement in fund-raising for state legislative candidates for the entire calendar year, whether or not you are acting on behalf of a client. You registered as a lobbyist in case you spent more than three hours a month coming into contact with state regulators, legislators, or local government officials. Under AS 24.45.171 and 2 AAC 50.545(f), a person--such as yourself--who provides **services** in addition to lobbying **services** for a client is subject to the provisions of the Lobbying Law if that person receives compensation and communicates with public officials to influence the Administration or Legislature for more than four hours in any 30 day period. Attempts to influence appointed local government officials are not subject to the Lobbying Law. Once a person files a registration statement, he or she is a lobbyist **S**ubject to the provisions of the Lobbying Law whether or not the four hours have been surpassed.

The law permits a lobbyist to terminate her or his registration if the activities which required registration under AS 24.45 have ceased. However, the prohibition on registered lobbyists' involvement in state legislative fund-raising apply to lobbyists who have been registered during the calendar year, whether or not an active registration has been terminated. You registered as a lobbyist on January 7, 1994, and are thus subject to the Lobbying Law's restrictions on your involvement in the

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fund-raising aspects of state legislative campaigns for calendar year 1994.

8. MAY YOU BOTH APPEAR IN PICTURES IN VARIOUS MEDIA?

Answer: Yes. Nothing in the Lobbying Law prohibits you from this activity.

9. MAY YOU **BE** PART OF THE SENATOR'S 'KITCHEN **CABINET**' OF ADVISORS DURING THE CAMPAIGN?

Answer: You may participate in the Campaign's "kitchen cabinet" if you do not engage in fund-raising activities or exercise the final decision-making authority or day-to-day control over the campaign or its fund-raising efforts.

10. MAY YOU BE **THE** DIRECTOR AND STATISTICIAN IN **THE** 'WAR ROOM' WHEN **THE** CAMPAIGN DOES TRACKING POLLING?

Answer: The Lobbying Law does not restrict your participation in tracking polling unless it is related to fund-raising efforts.

11. MAY YOU KEEP CAMPAIGN STAFF AND VOLUNTEERS SANE DURING THE **CAMPAIGN**?

Answer: The Lobbying Law does not restrict your participation in supporting campaign staff or volunteers unless related to fund-raising efforts.

12. How SHOULD YOU RESPOND WHEN **ASKED**, 'HOW IS THE CAMPAIGN GOING?'

Answer: You may respond as you see fit. The prohibitions under the Lobbying Law restrict your participation **in the** fund-raising efforts of a legislative campaign.

13. How SHOULD **YOU** RESPOND WHEN ASKED, 'HOW IS THE CAMPAIGN'S FUND-RAISING GOING?'

Answer: You should refer the question to the Senator or the campaign treasurer, and explain that the lobbying law prohibits you from active participation in fund-raising aspects of state legislative campaigns. You are not restricted from personally advocating (not related to fund-raising) on behalf of a state legislative candidate.

14. How SHOULD YOU RESPOND WHEN ASKED, 'DOES THE CAMPAIGN NEED CONTRIBUTIONS?'

Answer: You should explain that the Lobbying Law prohibits you from active participation in the fund-raising activities of state legislative campaigns. You

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cannot solicit, collect, accept or deliver campaign contribution or goods. Nothing, however, **prohibits** you from personally advocating on behalf of the Senator.

As required by 2 AAC 50.905 the Commission will rule on staff's proposed advice at its **next** regularly scheduled meeting, tentatively set for September 13, 1994, by teleconference. The Commission may approve, disapprove or modify the proposed advice. An advisory opinion must be approved **by** the affirmative vote of at least four members or it will be considered disapproved. Both staff's proposed advice and the Commission's final advice apply only to the specific activity for which the advice was requested.

If you act on staff's proposed advisory opinion in good faith, and the Commission subsequently rejects the proposed advice, staff will take no enforcement action on your activity up to the point you are given notice that the proposed advice was rejected.

If you would like to appear before the Commission when this matter is considered please contact me so that a mutually convenient time may be arranged.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Brooke Miles
Juneau Branch Administrator

cc: APOC Members
Karen Boorman, Executive Director
Nancy Gordon, Department of Law
APOC Senior Staff

enclosure: Mitchell O. Gravo **Advisory** Opinion of April 1, 1994



RECEIVED

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APOS - JNO
P.M. H.C.

7-8-94
BY FAX 7/5/94

Tuesday, July 5, 1994

Brooke Miles
Juneau Branch Administrator
Alaska Public Offices Commission
P. O. Box 110222
Juneau, Alaska 99811-0222 .

Dear Brooke:

As you know, Michael F. G. Williams and I were married last fall. He has retired from British Petroleum and is pursuing a number of business opportunities, Chugach Alaska Corporation has contracted with him to work on two specific projects. Because one of the projects, a proposed Princess Hotel at the Million Dollar Bridge, would have a huge impact on the City of Cordova and on tourism in the Prince William Sound, Michael registered as a lobbyist in case he spent more than three hours a month coming into contact with state regulators, legislators, or local government officials. We wanted to insure that no one would have cause to file a complaint if he briefed legislators. He actually spent very little time in Juneau and plans to terminate his registration. As far as I know, he has filed his lobbyist reports in a timely manner.

Spouses are an integral part of any campaign. Every campaign school I've ever attended made the support of one's family the top priority for a candidate in making his or her decision to run for office. I'm very lucky in having an extremely supportive husband. To expect him not to be actively involved in most facets of my campaign is absurd and impossible. We are partners. We share everything.

We have both read your letter of June 15, 1994, to Lobbyists in which you review the restrictions on lobbyists' participation in campaign activities. We understand that Michael cannot serve as campaign manager, director, treasurer, or on a finance committee for my campaign. However, we do have some questions about other restrictions. I remember the genesis of the three new paragraphs in AS 24.45 and know that the Legislature didn't consider the situation in which the spouse of a candidate is a registered lobbyist. In an effort to conform with the law in this rather murky area, we are requesting advisory opinions for the following questions.

Our home has been the site of numerous fundraising activities in the past. We've raised money for the Anchorage Opera and other nonprofits, hosted visiting dignitaries, and held fund-raisers for state and federal candidates. I plan to hold an event to raise money for my campaign, one for Don Young, one for the Senate Republican Campaign Committee, and perhaps others in our home at 6035 Tanaina Drive during this election cycle. Which can Michael host? Is his mere attendance restricted? He has no client in our relationship, it is

personal; therefore can he perform all the clerical functions you alluded to in your analysis? What details can he be involved in determining? (Not that he's known for details!) Do the restrictions apply only when he is acting on behalf of a client or are they pervasive?

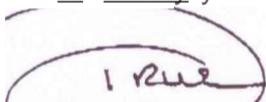
We plan to use pictures of the two of us in both print and television media. He is a-valued member of **my** "kitchen cabinet" team of advisors who I turn to both during session and the campaign. He is the director and statistician in the "war room" when we do tracking polling. He's generally relied upon to keep campaign staff and volunteers sane since they have to deal with me and I am generally considered to be "high **maintenance**" during a campaign. Is there any restriction on these activities?

Of most concern to Michael is the fact that most of our friends and acquaintances are not aware that he is a registered lobbyist. It's not his primary occupation, nor his primary duty for Chugach. When they ask the inevitable question, "How is the campaign going?", how should he respond? If they ask how fundraising is going, what does he say? And, should they ask directly whether or not I need contributions (and people DO ask), how should he reply?

I know of at least one other spouse, David Rogers of Juneau, who is also testing these waters with trepidation. We agree that clear directions are needed in order to protect candidates and spouses alike from unintentional wrongful acts.

We would appreciate your prompt reply to these questions. If you need clarification, I can be reached at the campaign headquarters, 522-3783 or voice mail, 243-8110; Michael can be reached at 244-5968.

Sincerely yours,


Drue Pearce
Senate Seat F

JUL 12 1994

6035, Tanaina Drive
Anchorage
Alaska 99502

July 6, 1994

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KAF

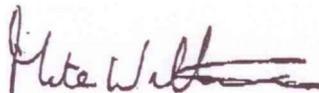
Brooke Miles,
Juneau Branch Administrator
Alaska Public Offices Commission
P. O. Box 110222-
Juneau, Alaska 99811

Dear Brooke,

I refer to the letter that my wife Drue Pearce sent to you yesterday asking for your opinion on my involvement in her re election campaign. Please consider that her letter is a joint request from both of us.

If you have any further questions please do not hesitate to call.

Yours



Michael F. G. Williams