

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

April 1, 1994

Mitchell D. Gravo
2550 Denali Street, 17th Floor
Anchorage, AK 99503-2796

WALTER J. HICKEL, GOVERNOR

REPLY TO:

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

Dear Mr. Gravo:

Following is the advisory opinion which the Commission approved on Friday, December 10, 1993. At its meeting in Juneau on February 9 - 11, 1994, the Commission was unable to reach an opinion on the question remaining from their December meeting, i.e., whether or not you are permitted to prepare the list of invited guests on behalf of a client. Their vote with respect to this issue was 3 in favor of staff's proposal that you *not* be permitted to prepare the guest list and 2 opposed to staff's proposal.

Under 2 Me 50.905(f) the Commission must approve an advisory opinion by the affirmative vote of at least four members. Because the vote was a 3-2 split, the Commission neither approved nor disapproved staff's proposed advice. Therefore, you are without formal binding guidance on this issue. Staff cautions you to be mindful that this advisory opinion does not protect you from a third party complaint alleging that you "actively engaged in fundraising activities" by preparing the list of invited guests for a fundraising event hosted by your client.

1. You intend to recommend to your clients that they support legislative candidates by contributing and/or hosting fundraisers.

Short Answer: Staff concludes that you may make recommendations to a client concerning its support of legislative candidates within the restrictions imposed by the Campaign Disclosure Law on individual and group activity.

Analysis: Legislative intent language which was attached to the legislation amending the Legislative Ethics Law (AS 24.60) and the Regulation of Lobbying Law (AS 24.45) states that the provisions of AS 24.45.121 (a) (8) are not intended to prohibit "candidate recommendations to the clients of lobbyists." However, no person may contribute more than \$1000 to a candidate each calendar year. AS 15.13.070(a). In addition, coordinating contributions or exercising direction, control or discretion over the candidates who receive the contributions may result in the formation of a group comprised of you and the client(s) you encourage. Such a group would be required to register, file periodic campaign disclosure reports and restrict its contributions to the \$1 000 annual limit. AS 15.13.040, .050, .070(a).

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Mitchell D. Gravo
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- 2. You will not deliver your clients' contributions to legislative candidates.

Short Answer: The only contribution a registered lobbyist may deliver to a legislative candidate is her/his personal contribution.

Analysis: The legislative intent language states that the provisions of AS 24.45.121 (a)(8) do not prohibit a lobbyist from making personal contributions.

AS 24.45.121 (a)(8) prohibits lobbyists from serving as a treasurer or deputy treasurer for a legislative candidate's campaign. Under AS 15.13.060, only campaign treasurers or deputy treasurers and candidates may accept contributions.

Proposed regulation 2 AAC 50.545(i) prohibits a lobbyist from collecting, accepting or delivering campaign contributions.

- 3. You intend to assist your clients with their fundraisers by preparing invitations, delivering invitations to the printer, picking invitations up from the printer, preparing the list of invited guests, and addressing and posting invitations.

Please note: the advice offered below is germane to the questions you asked concerning only your own actions. In your November 8 letter, you included a comment concerning the actions of your client, specifically, that the client would bill the campaign for the clerical and courier services you provide. Under 2 Me 50.905(b), staff cannot propose advice on this third party activity, but strongly believes this could be a serious problem and urges that you recommend your client(s) request an advisory opinion under the campaign disclosure law and regulations before they proceed as you have indicated they might.

Short Answer: The amendments to the prohibited acts section of the lobbying law (AS 24.45.121) allow you to perform all these services for your clients except preparing the list of invited guests. *The Commission was unable to reach a decision on the question of your preparing the list of invited guests.*

Analysis; Under AS 24.45.121 (a){a). lobbyists are prohibited from serving as officers on legislative campaigns, hosting fundraisers or otherwise actively engaging in fundraising activities of legislative campaigns. Once the details of the fundraiser have been determined without your participation, you are permitted to perform a courier or clerical function such as preparing the draft invitation, delivering draft invitations to the printer, picking the printed invitations up

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from the printer and addressing and mailing the invitations for your client. "Preparing the draft invitation" does not include composing its contents, but rather means you may perform the ministerial function of copying words and phrases which others have finalized.

Because of the prohibition on lobbyists hosting fundraisers, your name should not appear on the invitations. Additionally, you should not pay for the printing of the invitations or for the postage to mail them (even though your client will repay you) because of the prohibitions on contributions in the name of another under the campaign disclosure law. AS 15.13.120(a)(4), 2 MC 50.357.

4. You will not interact with legislative candidates or any campaign staff to determine the details of a fundraiser that your client is hosting. The details will be decided and confirmed without your participation.

Short Answer: You are prohibited from participating in the fundraising activities of a legislative campaign.

Analysis: AS 24.45.121 (a)(8) prohibits a registered lobbyist's participation in the fundraising activities of a legislative campaign. Your participation in arranging the details of a legislative candidate's fundraiser would violate the prohibition on "actively engaging in fundraising activities." This prohibition extends to the candidates and all members of their staffs.

5. If a client of yours is hosting a fundraiser for a legislative candidate, you will not encourage or advise your client, its members (if it is an association), the candidate or any of the candidate's campaign staff concerning the fundraiser.

Short Answer: You are prohibited from serving in a fundraising capacity on behalf of a legislative candidate and therefore the activities you describe must be avoided.

Analysis: Under AS 24.45.121 (a)(8), lobbyists may not "otherwise actively engage in the fundraising activity of a legislative campaign." Proposed regulation 2 AAC 50.545(i) defines "otherwise actively engage in the fundraising activity of a legislative campaign" to include serving as an officer or in a fundraising capacity for a controlled group or event and soliciting, collecting, accepting, or delivering campaign funds or goods. The conduct you describe is fundraising activity.

The answer to this question does not conflict with the response to Question Number 3, which stated you could perform clerical or courier functions such as delivering fundraiser invitations to the printer, picking up invitations at the printer, and addressing and posting invitations. These clerical and courier functions do not violate the statutory prohibition on registered lobbyists *hosting fundraisers*. The

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conduct which is the subject of this question 5 does not involve your hosting a fundraiser, as the client is the host. Instead, the contemplated activity in this question is encompassed by the statutory prohibition on *lobbyists otherwise actively engaging in the fundraising activity of a legislative campaign*.

6. You intend to employ an individual who will not engage in lobbying activity and will therefore not be a registered lobbyist. You ask whether this employee will be precluded from engaging in legislative fundraising activities because he or she is employed by you.

Short Answer: Yes, if you cause this person to engage in legislative fundraising activities described in AS 24.45.121 (a)(8) or proposed regulation 2 AAC 50.545(i) by directing, instructing, or remunerating her or him for performing those services or if participation in legislative campaign fundraising activities is a condition of her or his employment. However, this does not prohibit an employee of a lobbyist from acting independently outside the scope of employment.

Analysis: Under AS 24.45.121 (a)(8), lobbyists may not "otherwise actively engage in the fundraising activity of a legislative campaign." Proposed regulation 2 AAC 50.545(i) defines "otherwise actively engage in the fundraising activity of a legislative campaign" to mean serving as an officer or in a fundraising capacity for a controlled group or event, or soliciting, collecting, accepting, or delivering campaign funds or goods. If you remunerate an employee for participating in any of the activities described in AS 24.45.121 (a)(8) or proposed regulation 2 AAC 50.545(i), direct the employee to participate in that activity, or instruct the employee to participate in the fundraising activity, you are serving in a fundraising capacity for a legislative campaign.

The lobbying law defines "lobbyist" to include a person who communicates through agents with any public official for the purpose of influencing legislative or administrative action. AS 24.45.171 (8)(A). This definition of a lobbyist by what he or she does through agents rather than directly indicates that one purpose of the lobbying law is to control lobbyists' indirect actions (through employees) as well as direct actions lobbyists take themselves. One of your employees may not actively engage in fundraising activities for a legislative candidate if you direct, instruct, or remunerate her or him for performing those services. However, this person may engage in legislative fundraising activities on her or his own volition and on her or his own time, without direction, instruction or remuneration from you.

The lobbying law has prohibited lobbyists from acting in certain ways with other persons since 1976. Under AS 24.45.151 (a), a lobbyist who knowingly violates the lobbying law in concert with another person (such as an employee) is subject to criminal penalties. Likewise, a lobbyist who knowingly causes, participates in, aids or abets any violation of the lobbying law is also subject to

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criminal penalties. AS 24.45.151 (b). These criminal sanctions for acts of a lobbyist done with another person support the determination that the lobbying law is intended to regulate actions which lobbyists may take with others.

Even more relevant is the provision of criminal penalty sanctions for an employee who knowingly violates the lobbying law on behalf of an employer. If one of your employees were to knowingly undertake the activities described in AS 24.45121 (a)(8) or proposed regulation 2 Me 50.545(i) on your behalf, the employee would be exposed to possible criminal liability. AS 24.45.151 (a).

If you have questions concerning this advisory opinion, please call me.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Brooke Miles
Juneau Branch Administrator

cc: APOC Commissioners
Nancy Gordon, Assistant Attorney General
Karen Boorman, Executive Director
APOC Senior Staff

LAW OFFICES OF
MITCHELL D. GRAVO, INC.
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ARRIVED

NOV 16 1993

November 8, 1993



Karen Boorman
 Executive Director,
 Alaska Public Offices Commission
 2221 East Northern Lights, Room 128
 Anchorage, Alaska 99508

Dear Ms. Boorman:

On October 4, 1993 your staff responded to my August 11, 1993 memo in which I requested guidance on the new ethics law and regulations. Your staff gave me clear answers to most of my questions. However, at the end of the letter, your staff said that "this letter is not an advisory opinion."

The purpose of this letter is to request an advisory opinion on actions that I intend to take regarding fund raising and my clients. These actions will follow the informal advice detailed in your staff's letter of October 4, 1993. Please say through an advisory opinion whether these actions comply with the new ethics law and regulations.

In the future, I will recommend that clients support legislative candidates by either making a direct contribution to their campaigns or by contributing and hosting fundraisers for legislative candidates.

If my client is only contributing to a legislative candidate, they will deliver the contribution to the candidate personally or send the candidate their contribution through the mail. I will not deliver or mail contributions per the informal advice contained in your staff's October 4, 1993 letter to me.

If my client is also hosting a fundraiser for a legislative candidate, I will prepare the invitation for my client, deliver the invitation to the printer for my client, pick the invitation up at the printer for my client, prepare the list of who will be sent an invitation for my client, address and stamp the envelopes for my client, and mail the invitations for my client. The

APOC letter, November 8, 1993, Page 2

client will bill the campaign for the cost of printing the invitation the envelopes, and the postage.

The details of where, what date, and what time the fundraiser will be held will be determined by my client and the legislative candidate. I will have no discussions with the legislative candidate about these details per the informal advice contained in your staff's October 4, 1993 letter to me. If I am contacted by the legislative candidate or his or her campaign staff regarding such details, I will refer them to the client hosting the event for discussion of such details. Details of the fundraiser will be confirmed in writing between the client and the legislative candidate.

Once the invitations are mailed, Subsequent reminders by mail or fax will come from the client and contain only the client's letterhead and signature. Phonecalls reminding people of the event will be done by the client. There will be no letters from me, faxes from me, or phone calls from me to members of my association clients or others regarding the fundraiser per the informal advice contained in your staff's October 4, 1993 letter to me.

Please provide me with an advisory opinion whether the above described actions by me will comply with the new ethics law and regulations regarding lobbyists and fundraising activities.

I also intend to take a separate and distinct action for which I am requesting an advisory opinion. I intend to hire an employee who will not be engaged in lobbying activity, who will not be registered as a lobbyist. Will this employee be precluded from engaging in fundraising activity simply because he or she is working for me?

Thank you for your consideration of these requests for advisory opinions.

Sincerely,



Mitchell D. Gravo

WALTERJ. HICKEL, GOVERNOR

REPLY TO:

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ALASKA PUBLIC OFFICES COMMISSION

December 14, 1993

Mitchell D. Gravo
 2550 Denali Street, 17th Floor
 Anchorage. AK 99503-2796

Dear Mr. Gravo:

Enclosed please find a copy of the advisory opinion which the Commission approved on Friday, December 10, 1993. Please note that the Commission DID NOT reach a decision on that part of your third question dealing with your preparing the list of invited guests. The Commission intends to address that one question at its next regularly scheduled meeting, February 9-11, 1994. in Juneau.

1. You intend to recommend to your clients that they support legislative candidates by contributing and/or hosting fundraisers.

Shan Answer: Staff concludes that you may make recommendations to a client concerning its support of legislative candidates within the restrictions imposed by the Campaign Disclosure Law on individual and group activity.

Analysis: Legislative intent language which was attached to the legislation amending the Legislative Ethics Law (AS 24.60) and the Regulation of Lobbying Law (AS 24.45) states that the provisions of AS 24.45.121 (a)(8) are not intended to prohibit "candidate recommendations to the clients of lobbyists." However, no person may contribute more than \$1000 to a candidate each calendar year. AS 15.13.070(a). In addition, coordinating contributions or exercising direction, control or discretion over the candidates who receive the contributions may result in the formation of a group comprised of you and the client(s) you encourage. Such a group would be required to register, file periodic campaign disclosure reports and restrict its contributions to the \$1000 annual limit. AS 15.13.040, .050, .070(a).

2. You will not deliver your clients' contributions to legislative candidates.

Short Answer: The only contribution a registered lobbyist may deliver to a legislative candidate is her/his personal contribution.

Analysis: The legislative intent language states that the provisions of AS 24.45.121 (a)(8) do not prohibit a lobbyist from making personal contributions.

AS 24.45.121 (a)(8) prohibits lobbyists from serving as a treasurer or deputy treasurer for a legislative candidate's campaign. Under AS 15.13.060, only campaign treasurers or deputy treasurers and candidates may accept contributions.

Proposed regulation 2 Me 50.545(i) prohibits a lobbyist from collecting, accepting or delivering campaign contributions.

3. You intend to assist your clients with their fundraisers by preparing invitations, delivering invitations to the printer, picking invitations up from the printer, preparing the list of invited guests, and addressing and posting invitations.

Please note: the advice offered below is germane to the questions you asked concerning **only** your own actions. In your November 8 letter, you included a comment concerning the actions of your client, specifically, that the client would bill the campaign for the clerical and courier services you provide. Under 2 Me 50.905(b), staff cannot propose advice on this third party activity, but strongly believes this could be a serious problem and urges that you recommend your client(s) request an advisory opinion under the campaign disclosure law and regulations **before** they proceed as you have indicated they might.

Short Answer: The amendments to the prohibited acts section of the lobbying law (AS 24.45.121) allow you to perform all these services for your clients **except** preparing the list of invited guests. The Commission has not yet reached a decision on the question of your preparing the list of invited guests.

Analysis: Under AS 24.45.121 (a)(8), lobbyists are prohibited from serving as officers on legislative campaigns, hosting fundraisers or otherwise actively engaging in fundraising activities of legislative campaigns. Once the details of the fundraiser have been determined without your participation, you are permitted to perform a courier or clerical function such as preparing the draft invitation, delivering draft invitations to the printer, picking the printed invitations up from the printer and addressing and mailing the invitations for your client. "Preparing the draft invitation" does not include composing its contents, but rather means you may perform the ministerial function of copying words and phrases which others have finalized.

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Mitchell D. Gravo
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Because of the prohibition on lobbyists hosting fundraisers, your name should not appear on the invitations. Additionally, you should not pay for the printing of the invitations ~~or~~ for the postage to mail them (even though your client will repay you) because of the prohibitions on contributions in the name of another under the campaign disclosure law. AS 15.13.120(a)(4), 2 AAe 50.357.

4. You will not interact with legislative candidates or any campaign staff to determine the details of a fundraiser that your client is hosting. The details will be decided and confirmed without your participation.

Short Answer: You are prohibited from participating in the fundraising activities of a legislative campaign.

Analysis: AS 24.45.121 (a)(8) prohibits a registered lobbyist's participation in the fundraising activities of a legislative campaign. Your participation in arranging the details of a legislative candidate's fundraiser would violate the prohibition on "actively engaging in fundraising activities." This prohibition extends to the candidates and all members of their staffs.

5. If a client of yours is hosting a fundraiser for a legislative candidate, you will not encourage or advise your client, its members (if it is an association), the candidate or any of the candidate's campaign staff concerning the fundraiser.

Short Answer: You are prohibited from serving in a fundraising capacity on behalf of a legislative candidate and therefore the activities you describe must be avoided.

Analysis: Under AS 24.45.121 (a)(8), lobbyists may not "otherwise actively engage in the fundraising activity of a legislative campaign." Proposed regulation 2 AAe 50.545(i) defines "otherwise actively engage in the fundraising activity of a legislative campaign" to include serving as an officer or in a fundraising capacity for a controlled group or event and soliciting, collecting, accepting, or delivering campaign funds or goods. The conduct you describe is fundraising activity.

The answer to this question does not conflict with the response to Question Number 3, which stated you could perform clerical or courier functions such as delivering fundraiser invitations to the printer, picking up invitations at the printer, and addressing and posting invitations. These clerical and courier functions do not violate the statutory prohibition on registered lobbyists *hosting fundraisers*. The conduct which is the subject of this question 5 does not involve your hosting a fundraiser, as the client is the host. Instead, the contemplated activity in this

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 Mitchell D. Gravo
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question is encompassed by the statutory prohibition on *lobbyists otherwise actively engaging in the fundraising activity of a legislative campaign.*

6. You intend to employ an individual who will not engage in lobbying activity and will therefore not be a registered lobbyist. You ask whether this employee will be precluded from engaging in legislative fundraising activities because he or she is employed by you.

Short Answer: Yes, if you cause this person to engage in legislative fundraising activities described in AS 24.45.121 (a)(8) or proposed regulation 2 AAe 50.545(i) by directing, instructing, or remunerating her or him for performing those services or if participation in legislative campaign fundraising activities is a condition of her or his employment. However, this does not prohibit an employee of a lobbyist from acting independently outside the scope of employment.

Analysis: Under AS 24.45.121 (a)(8), lobbyists may not "otherwise actively engage in the fundraising activity of a legislative campaign." Proposed regulation 2 Me 50.545(i) defines "otherwise actively engage in the fundraising activity of a legislative campaign" to mean serving as an officer or in a fundraising capacity for a controlled group or event, or soliciting, collecting, accepting, or delivering campaign funds or goods. If you remunerate an employee for participating in any of the activities described in AS 24.45.121 (a)(8) or proposed regulation 2 AAe 50.545(i) direct the employee to participate in that activity, or instruct the employee to participate in the fundraising activity, you are serving in a fundraising capacity for a legislative campaign.

The lobbying law defines "lobbyist" to include a person who communicates through agents with any public official for the purpose of influencing legislative or administrative action. AS 24.45.171 (8) (A). This definition of a lobbyist by what he or she does through agents rather than directly indicates that one purpose of the lobbying law is to control lobbyists' indirect actions (through employees) as well as direct actions lobbyists take themselves. One of your employees may not actively engage in fundraising activities for a legislative candidate if you direct, instruct, or remunerate her or him for performing those services. However, this person may engage in legislative fundraising activities on her or his own volition and on her or his own time without direction, instruction or remuneration from you.

The lobbying law has prohibited lobbyists from acting in certain ways with other persons since 1976. Under AS 24.45.151(a), a lobbyist who knowingly violates the lobbying law in concert with another person (such as an employee) is subject to criminal penalties. Likewise, a lobbyist who knowingly causes, participates in, aids or abets any violation of the lobbying law is also subject to criminal penalties. AS 24.45.151 (b). These criminal sanctions for acts of a lobbyist

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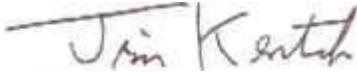
done with another person support the determination that the lobbying law is intended to regulate actions which lobbyists may take with others.

Even more relevant is the provision of criminal penalty sanctions for an employee who knowingly violates the lobbying law on behalf of an employer. If one of your employees were to knowingly undertake the activities described in AS 24.45121 (a)(8) or proposed regulation 2 MC 50.545(i) on your behalf, the employee would be exposed to possible criminal liability. AS 24.45.151 (a).

If you would like to appear either in person or telephonically before the Commission when they consider the remaining part of your request for an advisory opinion, please contact Jim Kentch at 276-4176.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Jim Kentch
Assistant Director

cc: APOC Commissioners
Nancy Gordon, Assistant Attorney General
Karen Boorman, Executive Director
APOC Senior Staff

COPY OF FINAL

October 4, 1993

Mitchell D. Gravo
2550 Denali, 17th Floor
Anchorage, AK 99503

Re: Lobbyists and Legislative Campaign Fundraising

Dear Mr. Gravo:

Thank you for your patience pending staff's response on your request for informal advice. Your questions involve recently enacted provisions of the Lobbying Law that are complex and interrelated with the Campaign Disclosure Law. You have requested advice from the Alaska Public Offices Commission (APOC) concerning lobbyists' involvement in legislative campaign fundraising activities in the form of six specific questions: 1) can lobbyists recommend that clients contribute to a legislative campaign or hold a fundraiser; 2) can lobbyists discuss fundraiser details with candidates; 3) can lobbyists encourage membership association clients to contribute to a campaign; 4) can lobbyists provide certain services to their clients that are related to fundraising activity; 5) can lobbyists deliver campaign contributions; and 6) when may the public review the amendments to the lobbying regulations. For clarity, I have restated your questions before responding to them. Please be aware that the amendments to the lobbying law affect only **legislative campaigns**. Accordingly, the words **candidate** or **campaign** refer only to legislative campaigns and not to campaigns for the offices of Governor, Lieutenant Governor, municipal office, or to support or oppose ballot proposition issues.

1 Recommendations to clients

Questions: *CAN I RECOMMEND THAT MY CLIENTS CONTRIBUTE TO CANDIDATES?*

CAN I RECOMMEND THAT MY CLIENTS HOLD A FUNDRAISER FOR CANDIDATES?

ANSWER: Yes. Staff concludes that you may recommend that your clients contribute to legislative candidates and may recommend that your clients hold a fundraiser for a legislative candidate.

Legislative intent language (copy enclosed) attached to the 1992 legislative ethics reform legislation amending the lobbying statute (AS 24.45) states that the provisions of AS 24.45.121 (a)(8) do not prohibit "candidate recommendations to **the** clients of lobbyists."

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Please note that under 2 AAe 50.525(a) the individual members of a membership association that employs a lobbyist are not clients of the lobbyist. The lobbyist's only client is the membership association.

2 Discussing fundraiser details with legislative candidates

Question: *CAN I DISCUSS THE DETAILS OF A FUNDRAISER THAT MY CLIENTS ARE HOSTING FOR A CANDIDATE WITH THE CANDIDATE: WHAT WOULD BE AN APPROPRIATE DATE TO HOLD THE FUNDRAISER, WHERE AND WHAT TIME SHOULD THE FUNDRAISER BE HELD, WHICH CLIENTS WILL BE INVOLVED IN THE FUNDRAISER?*

ANSWER: No. The amendments to the lobbying statute limit the **participation** of registered lobbyists in legislative campaigns.

Under AS 24.45.121 (a)(8) registered lobbyists are prohibited from serving on a finance or fundraising committee for a legislative candidate. Your participation in arranging the details of a fundraiser in cooperation with a candidate or a candidate's campaign committee qualifies as actively engaging in fundraising activities and is therefore prohibited under the law.

3. Membership association clients

The following two questions relating to a lobbyist's communications with individual members of an association that is a client of the lobbyist raise complex issues involving the recently amended legislative Ethics Law, AS 24.60, and its relation to the Campaign Disclosure Law, AS 15.13, and the Lobbying Law, AS 24.45, as well as the recently adopted proposed regulations. Your questions are of a general nature, and staff's response is correspondingly general. If at any time in the future specific factual situations arise and you are unsure whether your contemplated action would either be prohibited by or trigger reporting requirements under the Campaign Disclosure or lobbying Laws, staff strongly recommends that you request an advisory opinion before acting.

CAN I ENCOURAGE THE INDIVIDUAL MEMBERS [of an association that is my client] TO CONTRIBUTE TO A CANDIDATE OVER THE TELEPHONE, BY FAX, BYSENDING THEM AN INVITATION TO A FUNDRAISER THEIR ASSOCIATION IS HOSTING, BY FAXING A COPY OF THAT INVITATION TO THEM AS A REMINDER OF THE FUNDRAISER THEIR ASSOCIATION IS HOSTING?

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ANSWER: No. Under the Lobbying Law registered lobbyists may not 'btherwise actively engage in the fundraising activity of a legislative campaign. AS 24.45.121 (a)(8). Proposed regulation 2 MC 50.545(i)(1) interprets this statutory prohibition to include serving in any fundraising capacity for a controlled event or group. The conduct you describe is fundraising activity. A fundraiser for a specific candidate is a controlled event if either more than 50% of its net proceeds are contributed to a single candidate or it is organized to benefit a single candidate.

IF MY CLIENT IS AN ASSOCIATION OR GROUP THAT HAS MORE THAN ONE MEMBER, CAN I ENCOURAGE THE INDIVIDUAL MEMBERS TO CONTRIBUTE TO CANDIDATES?

ANSWER: A qualified yes. For the purposes of this response, we assume you are acting as a lobbyist on behalf of your client, the association. In communicating encouragements to its members. The laws the Commission administers do not prohibit you from encouraging (as contrasted with soliciting which is prohibited under proposed regulation 2 Me 50.545(1)(2)) individual members to contribute to candidates. However, depending on the specific facts, either you or your client may have reporting obligations under the Campaign Disclosure Law in addition to your reporting requirements under the Lobbying Law. In some instances, the actions you describe could be non-monetary contributions to candidates subject to the \$1000 limit.

Under 2 MC 50.314(b)(3) an organization may report as an individual so long as it does not exercise 'direction, control, or discretion over money paid by others for the purpose of influencing an election and over the choice of the candidate who would receive the contributions. Depending upon the specific nature and extent of your communications with an organization's members and whether the association exercised 'direction, control or discretion over the candidates, by encouraging the members to contribute to candidates you may serve as the organization's agent of 'direction, control, or discretion. If you do, you would form a group comprised of yourself, the individual members you encourage, and the association to which the members belong (your client as a lobbyist). Such a group would be required to register under AS 15.13.050 and file periodic campaign disclosure reports under AS 15.13.040. Significantly, the group's annual contribution to each candidate would be limited to \$1000.

4. Client services

QUESTIONS: *CAN I DRAFT AN INVITATION FOR A FUNDRAISER THAT MY CLIENTS ARE HOSTING?*

CAN I TAKE AN INVITATION FOR A FUNDRAISER THAT MY CLIENTS ARE HOSTING TO THE PRINTER TO HAVE IT PRINTED?

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CAN I PICK UP AT THE PRINTER AN INVITATION FOR A FUNDRAISER THAT MY CLIENTS ARE HOSTING AND DELIVER IT TO THE APPROPRIATE PEOPLE FOR DISTRIBUTION: THE HOSTS OF THE FUNDRAISER AND THE CANDIDATE?

CAN I RUN OFF ENVELOPES WITH ASSOCIATION MEMBER NAMES FOR A FUNDRAISER THAT MY ASSOCIATION CLIENT IS HOSTING?

ANSWER: Yes. The amendments to the lobbying law do not affect performing these **services** for your clients. Once the details of the fundraiser have been settled without your participation, performing a courier or clerical function on behalf of your client such as drafting invitations, delivering invitations to the printer or your client, or addressing envelopes for your client is permitted.

The **activities** prohibited under AS 24.45.121 (a)(8) include serving as a campaign manager, director, treasurer or deputy treasurer, hosting a fundraising event, or actively engaging in fundraising **activities** of a legislative candidate. Proposed regulation 2 MC 50.545(i) defines "otherwise engage in the fundraising activity of a legislative **campaign**" as **serving** as an officer (**manager, director, treasurer or deputy treasurer**) for either a controlled group or event or **soliciting, collecting, accepting or delivering campaign funds or goods.**

Because lobbyists are prohibited from hosting fundraising events, your name should not appear on the invitations. Additionally you should not pay for the printing of the invitations (even though *your* client will repay you) because of the prohibition on contributions in the name of another under AS 15.13.120(4) and 2 AAC 50.357.

5. Delivering contributions to legislative candidates

Question: *CAN I DELIVER CONTRIBUTIONS FROM MY CLIENTS TO LEGISLATIVE CANDIDATES?*

ANSWER: No. Under AS 15.13.060 *only* campaign treasurers, deputy treasurers and candidates may accept contributions. Registered lobbyists are prohibited from serving as a treasurer or deputy treasurer for legislative candidates under AS 24.45.121 (a)(8). Proposed regulation 2 Me 50.545(i) specifies that lobbyists *may* not collect, accept or deliver campaign funds. 2 Me 50.334 permits temporarily authorized persons **who are not lobbyists** to accept contributions under certain conditions.

Mitchell D. Gravo
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VI. Public review of regulations

Question: *WHEN WILL THE REGULATIONS ON THESE ISSUES BE AVAILABLE FOR PUBLIC REVIEW?*

ANSWER: They are available for public review at APOC offices during business hours. Enclosed is a copy of the draft regulations adopted by the Commission on June 4, 1993. Formal notice under the Administrative Procedures Act (AS 44.62) was given for public hearings on the proposed regulations which were held on February 19, 1993 in Juneau and June 3, 1993 in Anchorage. Further, on March 19, 1993, all registered lobbyists were mailed notice of the proposed regulations and invited to submit written comments by April 20, 1993; the written comment period was later extended to May 20, 1993. The Department of Law is currently reviewing the regulations. After the Department of Law has concluded its review and prepares its legal approval and opinion, the regulations will be submitted for filing by the Lieutenant Governor. The regulations will become effective and have the force of law on the 30th day after the filing date.

This letter is not a formal advisory opinion. It addresses only the manner in which the laws administered by the commission apply to the questions you presented. The final administrative authority for interpretation of the laws and regulations administered by this office is the commission itself, which addresses the propriety of specific activity by issuing advisory opinions (see 2 AAe 50.905, copy enclosed). Only an advisory opinion from the commission can provide the basis for staff to decline to investigate a complaint filed by a member of the public. However, staff makes its best efforts to provide correct and timely information through informal advice, and in the event of a complaint would recommend that the commission approve the advice given by staff.

Please contact me if you have any questions.

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