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Office of Campaign and Political Finance

One Ashburton Place, Room 411

Boston, MA 02108

Advisory Opinion

September 17, 2004

AO-04-15

Will Brownsberger, Chairman
Belmont Democratic Town Committee
18 Moore Street, Suite 201
Belmont, MA 02478

RE: Fundraiser to benefit federal political committee

Dear Mr. Brownsberger:

This letter is in response to your August 24, 2004 request for an advisory opinion.

You have stated that the Belmont Democratic Town Committee, in partnership with the Watertown Democratic Town Committee and approximately 20 individual sponsors, would like to hold a fundraising event to benefit the Democratic National Committee's (DNC's) campaign efforts in "battleground states."¹ Some, but not all, of the individual sponsors are members or associates of the town committees.

The town committees will not make any expenditures in connection with the event, and the town committees will receive no monetary benefit as a result of the event. Invitations will be made by phone and e-mail. There will be no cost for renting the hall because one of the individual sponsors is a member of the Oakley Country Club, where the event will take place. Individual sponsors will make payments directly to the club for the costs associated with the event (including \$25 per person for food, and \$400 for a band).

Your goal is to raise \$20,000 through ticket sales (200 attendees at \$100 each). All contribution checks received in connection with the event will be made payable to "the NH Victory 2004 Federal Account," which you have stated is an account established to receive funds raised for "Battleground Victory," a federally registered committee² established by the DNC. The checks will be given directly to representatives of the federal committee who will be present at the event, or will be gathered together and forwarded to the federal committee. You will also forward a list of the persons

¹ You have stated that other Democratic Town Committees may also help sell tickets.

² According to the FCC, the participants in the "Battleground Victory" joint fundraising committees created in accordance with 11 CFR 102.17, include the state Democratic party committees of the "battleground" states of New Hampshire, Missouri, and West Virginia.

sponsoring the event to the federal committee. It is your understanding, based on your conversations with the Federal Election Commission, that these persons would be deemed to be making in-kind contributions to the DNC.

You would like to invite two congressmen and a Professor at Harvard University's Kennedy School of Government to speak at the event. You believe that the congressmen might, in addition to speaking regarding the presidential candidacy of John Kerry, use the event as a forum at which to make their own fundraising appeals.

QUESTION

Would the planned event, which involves organizational sponsorship by the town committees, but no receipts into or expenditures from the town committees' accounts, involve campaign finance activity by the town committees subject to the Massachusetts campaign finance law?

ANSWER

No. The proposed event relates solely to a federal election and does not involve any fundraising or expenditures by the committees on their own behalf.³

DISCUSSION

The office has issued regulations allowing local political party committees to sponsor joint fundraising events with other party committees. See 970 CMR 2.12. The regulations apply, however, only to events that are held on behalf of Massachusetts state, county or municipal candidates or political committees, i.e., candidates and committees that are subject to the Massachusetts campaign finance law, M.G.L. c. 55. Federal law preempts state law with respect to limits and disclosure requirements applicable to persons raising or spending funds to support or oppose federal candidates. See 2 USC § 453 (provisions of the Federal Election Campaign Act "supersede and preempt any provision of State law with respect to Federal office") and 11 CFR 108.7(b) and (c), and AO-96-20 (relating to state candidate holding joint fundraising event with congressman). Although the Committee may be receiving some intangible benefit by sponsoring the event, given the overwhelmingly federal nature of the event, the individuals making advance payments to sponsor the event or purchasing tickets would be making contributions to the DNC, not to the sponsoring town committees.

Because the committees are lending their names to the event as sponsors, however, it is possible that individuals interested in reviewing the contribution and expenditure information related to the event might seek such information on the campaign finance reports filed with this office. Because no funds will be raised or spent by the sponsoring town committees, however, this information would be reflected only on reports filed with the Federal Election Commission.

³ You should note, however, that appointed state, county or municipal employees may not be among the group of individual sponsors. Although elected officials may sponsor a political fundraising event, appointed state, county or municipal employees may not, since such activity would involve indirect solicitation or receipt of funds for a political purpose, which is prohibited by Section 13 of the campaign finance law. Federal law does not preempt the application of Section 13 to state, county or local employees, even where such employees are soliciting or receiving funds in connection with a federal campaign. See AO-95-39 and FEC Advisory Opinion 1989-27.

To avoid confusion and direct inquiries to the appropriate office, a copy of this letter will be included in the public file of each of the two sponsoring town committees.

If the congressmen might, in addition to speaking regarding the presidential candidacy of John Kerry, use the event as a forum in which to make their own fundraising appeals, this would not raise an issue under the Massachusetts campaign finance law.

This opinion is issued solely within the context of the Massachusetts campaign finance law and is based on the representations made in your letter. You should contact the Federal Election Commission to ensure compliance with federal law.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Sullivan". The signature is written in a cursive style and is positioned to the left of a vertical line.

Michael J. Sullivan
Director

MJS:gb