

Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

September 21, 1987

The Honorable Alan Stephens
Arizona State Senator
State Capitol - Senate Wing
Phoenix, Arizona 85007

Re: I87-111 (R87-117)

Dear Senator Stephens:

You have requested an opinion of our office regarding the application of the A.R.S. § 16-905 contribution limitations to funds raised through the sale of advertising by the Governor to fund the printing of a tabloid newsletter to be mailed to all registered voters in the State of Arizona. You indicated that the tabloid will report on what the Governor has accomplished and his further goals. It is to be mailed during a time when petitions to recall the Governor are being circulated.

The contribution limitations of A.R.S. § 16-905 apply in connection with candidates and their campaign committees. The term "candidate" is defined in A.R.S. § 16-905(O)(1) as follows:

O. In this section:

1. "Candidate" means an individual who receives or gives consent for receipt of a contribution for his nomination for or election to any office in this state other than a federal office. Candidate includes a personal campaign committee designated or authorized by the individual to receive contributions or make expenditures on his behalf.

(Emphasis added.) It is clear that A.R.S. § 16-905 applies to contributions to be used to conduct election campaigns for

The Honorable Alan Stephens
September 21, 1987
I87-111
Page 2

future elections. We have also previously stated that contributions made for the purpose of discharging a campaign debt for a prior election are covered by the limitations of A.R.S. § 16-905. Ariz. Atty. Gen. Op. I87-039, pp. 17-19.

On September 3, 1987, the Arizona Supreme Court considered the question whether A.R.S. § 16-905 and other contributions and expenses statutes apply to the Mecham Recall Committee for activities conducted at a time when no election is scheduled. The court ruled, in Special Action CV-87-0306-SA, as follows:

IT IS ORDERED that A.R.S. § 16-901 thru 16-924 do not apply to the activities of the Mecham Recall Committee, Inc. in its circulation of the recall petitions and activities connected therewith.

Opinion to follow.

The laws cited in the order apply to campaign committees which are "organized, conducted or combined for the purpose of influencing the result of any election in the state" A.R.S. § 16-901(1). A.R.S. § 16-905 places limitations on the amounts of contributions that may be made to "campaign committees advocating the election or defeat of state or local candidates." A.R.S. § 16-905(D). Because the Arizona Supreme Court concluded that the campaign contributions and expenses statutes do not apply to a committee opposing the Governor's tenure in office while it is circulating recall petitions, we assume that the Governor would not be considered a candidate for a recall election unless and until it is determined that a recall election must be held.^{1/}

We conclude that because the Governor is not at this time a candidate in a special recall election, acceptance of

^{1/}Once recall petitions are officially filed against an officer, that officer has five days in which to resign, or a recall election will be held in which his or her name is automatically placed as a candidate on the official ballot without nomination. Ariz. Const., art. VIII, pt. 1, §§ 3 & 4; A.R.S. §§ 19-208, 19-209, 19-212(A).

The Honorable Alan Stephens
September 21, 1987
I87-111
Page 3

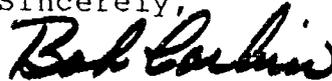
funds solely to defray the cost of a constituent communication^{2/} is not a contribution covered by A.R.S. § 16-905, so long as the funds are not used to discharge a prior campaign debt or to fund a future election. It is, therefore, not necessary to address the question whether monies paid in exchange for advertising are contributions.

You also asked to what extent there are limitations on contributions by corporations and labor organizations in this context. A.R.S. § 16-919 prohibits such contributions made for the purpose of influencing an election. The term "election" is defined in A.R.S. § 16-919(H) as follows:

For purposes of this section, "election" means any election to any political office, any election to any political convention or caucus, or any primary election held for the purpose of selecting any candidate, political committee or other person for any political office, convention or caucus.

The Arizona Supreme Court's order of September 3, 1987 stated that A.R.S. § 16-919 does not apply to the recall committee during its petition circulating activities. We therefore conclude that unless and until a recall election is called and the Governor becomes a candidate, he may receive unlimited contributions from individuals, corporations or labor organizations for the sole purpose of financing a tabloid to communicate with constituents.

Sincerely,



BOB CORBIN
Attorney General

BC:LTH:JGF:gm

^{2/}We also note that A.R.S. § 16-901 provides that an expenditure for a written constituent communication incurred more than 60 days preceding an election does not constitute an "expenditure" for purposes of the campaign contributions and expenses statutes.