

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

W. CHARLES SMITHSON
Executive Director
& Legal Counsel

514 East Locust Street, Suite 104
Des Moines, Iowa 50309-1912
Telephone 515-281-4028/Fax 515-281-3701
www.iowa.gov/ethics

BOARD MEMBERS:
James Albert, Chair
Phyllis Peters
Janet Carl
Gerald Sullivan
Betsey Roe
John Walsh

July 14, 2004

Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, DC 20463

AOR 2004-28

Re: Amended Request for Advisory Opinion on State Party Building Fund

Dear Commissioners and General Counsel:

Please consider this letter an amended request for an advisory opinion from the Federal Election Commission (FEC) pursuant to FEC regulation 11 CFR 112.1. The original request was submitted on June 25, 2004, concerning the application of federal law and FEC regulations to the issue of disclosure of State Party building fund donors. I am seeking this opinion on behalf of the Iowa Ethics and Campaign Disclosure Board (Board). The Board, in part, administers the campaign finance laws in Iowa as those laws pertain to state and local elections.

SPECIFIC ACTIVITY INTENDED TO UNDERTAKE:

The Board is in the process of determining if it has the authority to require State Party committees in Iowa to publicly disclose the names of donors to their building fund accounts.

DESCRIPTION OF FACTS:

1. In April of 1998, the Iowa Democratic Party sought an advisory opinion from the FEC concerning whether or not the Federal Election Campaign Act of 1971, as amended, and FEC regulations preempted Iowa State law relating to donations for the establishment of a State Party building fund.¹
2. On May 22, 1994, the FEC issued Advisory Opinion 1998-8 to the Iowa Democratic Party stating that based on 2 U.S.C. 431(8)(B)(viii) and 11 CFR 100.7(b)(12), 100.8(b)(13), and 114.1(a)(2)(ix) State Party committees could "accept corporate donations to building funds set up for the purpose of purchasing or constructing an office facility for those party committees." Further, that Federal law preempted Iowa State law on this issue.
3. Subsequently, both the Iowa Democratic Party and the Republican Party of Iowa established building funds and have accepted corporate donations that were placed in those funds.
4. With the passage of the Bipartisan Campaign Reform Act of 2002, and accompanying FEC rulemakings, it appears that Federal law no longer preempts the Board from at least some regulation of State Party building funds.

¹ The core issue was that Iowa State law prohibited corporations, financial institutions, and insurance companies from making donations to a State Party Committee. The Board had previously ruled that such entities could not contribute to a State Party building fund.

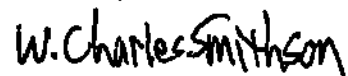
5. As corporate contributions to State Party building funds have been permitted for the past six years, the Board is not seeking to prohibit contributions to these funds. Rather, the Board is interested in seeking public disclosure of future donors.

QUESTION:

Does the Federal Election Campaign Act, as amended by the Bipartisan Campaign Reform Act of 2002, or do any accompanying FEC regulations, prohibit the Iowa Ethics and Campaign Disclosure Board from requiring disclosure of donors to a State Party committee building fund?

Thank you for your time and attention to this matter. If you have questions or concerns about this request, please notify me.

Sincerely,

A handwritten signature in black ink that reads "W. Charles Smithson". The signature is written in a cursive, slightly slanted style.

W. Charles Smithson

Director & Counsel for the Board