

To: Bradley Litchfield/FEC/US@FEC
cc: ocdp@earthlink.net

Subject: Request for Advisory Opinion

November 1, 2001

Office of the General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

AOR 2001-19

re: Oakland Democratic Campaign Committee
FEC #C00040857

Dear Sir/Madam:

I am chair of the Oakland Democratic Campaign Committee and am writing to request that you provide us with an advisory opinion on whether we are prohibited by law from qualifying for a state bingo license. The Oakland Democratic Campaign Committee is the federal committee established by the Oakland County Democratic Party.

As part of our ongoing fundraising efforts, we operate two bingos that were designated as of October 17, 1995, as federal bingos by the Michigan Bureau of State Lottery, which licenses bingos in this state.

A statute passed in 1995 by the Michigan Legislature, 1995 PA 275, MCL 432.103 et seq., in section 3(6) defines what is an organization that would qualify for a bingo license. In part, that subsection states that a [q]ualified organization does not include a candidate committee, political committee, political party committee, ballot question committee, independent committee, or any other committee as defined by, and organized pursuant to, the Michigan campaign finance act, Act No. 388 of the Public Acts of 1976, beings sections 169.201 to 169.282 of the Michigan Compiled Laws...
[Emphasis added].

Please note that the 1995 amendment to the Michigan bingo statutes was challenged in court on constitutional and other grounds. The Michigan Court of Appeals upheld the amendment. The Michigan Supreme Court on March 27, 2001, denied an application for leave to appeal the Court of Appeals decision, and on August 28, 2001, denied a motion for reconsideration.

The Michigan Bureau of State Lottery in letters to me dated September 24, 2001, stated it was bringing action to revoke our two bingo licenses, stating, in part, as follows:

According to records of the Bureau, the current and/or previous bingo license applications submitted by your organization indicate that it falls within the definition of a committee under the Michigan Campaign Finance Act (Act 388 of the Public Acts of 1976, as amended). As a result of Act 275 of the Public Acts of 1995, such committees are no longer eligible for licensure under the Bingo Act.

The Bureau scheduled an informal hearing for us to demonstrate compliance on Friday, August 19, 2001. At the informal hearing, I argued the statute did not apply to us due to the fact our committee is organized under federal, rather than state, law. The Bureau has taken the matter under advisement; I expect it will issue a ruling within the next 1-2 months.

I request that you provide us as soon as possible with an opinion on the following questions:

(1) As a committee that does not allocate receipts and expenditures between federal and non-federal activity but rather has separate federal and non-federal committess, is the Oakland Democratic Campaign Committee, FEC #C00040857, a committee as defined by, and organized pursuant to, the Michigan campaign finance act, Act No. 388 of the Public Acts of 1976, being sections 169.201 to 169.282 of the Michigan Compiled Laws?

(2) If so, does federal law bar the application of the state bingo license prohibition to our federal committee?

If you have any questions or require any further information about this matter, please contact me directly at 248-680-8870. Thank you.

Yours sincerely,

/s/

Gary Kohut, Chair

GLK/g