

Alaska State Legislature

Select Committee on Legislative Ethics

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HOUSE SUBCOMMITTEE COMPLAINT H 08-02

DISMISSAL ORDER

The House Subcommittee hereby dismisses the complaint filed against Representative Les Gara.

The House Subcommittee investigated allegations contained in complaint H 08-02 and determined that:

1. The House Subcommittee received a properly filed complaint against Representative Gara dated May 29, 2008.
2. The complaint alleged the following:
 - That Representative Gara, as campaign chairperson for the House Democratic Campaign Committee (HDCC), solicited campaign contributions via a letter sent March 25, 2008, for the HDCC during the regular legislative session in violation of AS 24.60.031, Restrictions on Fund Raising.

SCOPE OF INVESTIGATION:

The House Subcommittee met on the following dates: May 29, 2008 and January 7, 2009.

- On May 29, 2008 the subcommittee adopted a Scope of Investigation focusing on AS 24.60.031, Restrictions on Fund Raising.

AS 24.60.031(a)(1) A legislator ... may not on a day when either house of the legislature is in regular ... session, solicit or accept a contribution or a promise or pledge to make a contribution for a campaign for the state legislature; ...

- On January 7, 2008 the subcommittee reviewed the investigative materials and heard from Representative Gara.

DISMISSAL

The House Subcommittee finds the actions of Representative Les Gara, set out in Complaint H 08-02, did not give rise to a violation of the Legislative Ethics Act and therefore dismisses the complaint.

The subcommittee determined there was no clear violation of AS 24.60.031(a)(1). The subcommittee concluded the relevant language of AS 24.60.031(a)(1) "for a campaign for the state legislature" is ambiguous. It was not clear to the subcommittee if this language prohibits solicitation of a contribution to a specific campaign for the state legislature or, more broadly, prohibits the solicitation of a contribution for a state campaign which will be identified in the future, after the legislative session.

The accepted practice has been to allow legislators to solicit campaign contributions during the legislative session for *Political Parties*, as long there was no solicitation for contributions for a specific state legislative campaign and as long as no contributions were made to a state legislative campaign during the legislative session. This interpretation, regarding solicitation of contributions for political parties, was confirmed in emails between the Ethics Office and Representative Gara in 2006. However, in this case, Representative Gara solicited contributions for the HDCC, a subgroup of the Alaska Democratic Party. The primary purpose of the HDCC is to receive campaign contributions of a general nature and to dedicate funds to particular state legislative candidates. These facts were not provided to the Ethics Office and as a result were not addressed by the Ethics Office in the correspondence with Representative Gara.

The subcommittee determined that in light of past practice and the advice Representative Gara received from the Ethics Office that it would not reconsider the interpretation of AS 24.60.031(a)(1) that allowed a solicitation of contributions for political parties as outlined above. As a result the subcommittee did not find a violation of AS 24.60.031(a)(1) based on the fact that Representative Gara solicited contributions during the legislative session for the HDCC, a subgroup of a political party.

In addition, the subcommittee notes that legislation passed during the 2008 legislative session now prohibits legislators from soliciting or accepting a contribution or a promise or pledge to make a contribution for a political party during a regular or special legislative session.

The subcommittee considered whether Representative Gara violated AS 24.60.031(a)(1) by soliciting contributions for specific campaigns. This was a very close question. The subcommittee was concerned that by the listing of some candidates for state office but not all the candidates it could be interpreted that the solicitation was for the specific named candidates. This clearly would have been a violation of AS 24.60.031(a)(1).

The subcommittee concluded that a close reading of the solicitation letter sent by Representative Les Gara, on behalf of the HDCC, would not support a determination that the solicitation was made for the named candidates. However, the letter did create an appearance of impropriety pursuant to AS 24.60.010(2),

“The legislature finds that a fair and open government requires that legislators and legislative employees conduct the public’s business in a manner that preserves the integrity of the legislative process and avoids conflicts of interest or even appearances of conflicts of interest.”

in that a less than thorough reading of the letter was very likely to leave the reader with the impression that the solicitation was being made for the specific named candidates.

Adopted this 7th day of January 2008
by a majority of the House Subcommittee

_____/s/
H. Conner Thomas., Co-Chair

Members Participating

H. Conner Thomas, Co-Chair
Dennis (Skip) Cook
Gary J. Turner
Representative Bob Roses
Representative Mary Nelson

Members Absent

Ann Rabinowitz
Herman G. Walker, Jr.