November 2, 2018

The Honorable H. Fuller Cridlin
Lee County Commonwealth’s Attorney
Post Office Box 467
Jonesville, Virginia 24263

Dear Mr. Cridlin:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the Code of Virginia.

Issue Presented

You ask whether a political party’s raffle falls within the charitable gaming permit exemption outlined in § 18.2-340.23.

Applicable Law and Discussion

Although gambling is generally prohibited in the Commonwealth, an exception exists for charitable gaming when conducted in strict compliance with the requirements of the Code. The relevant provisions of the Code governing charitable gaming are found in Article 1.1: 1, Chapter 8 of Title 18.2 (§§ 18.2-340.15 to 18.2-340.38). Among other things, this article establishes the types of entities that are authorized to conduct charitable gaming in the Commonwealth and the conditions under which they are permitted to do so, including state supervision and, where applicable, possession of a valid permit issued by the Department of Agriculture and Consumer Services.

The only potential basis of authority in the article for a political party to conduct a raffle is found in § 18.2-340.16, which provides in relevant part that “[a]ny [] nonprofit organization” may “raise[]

funds by conducting raffles that generate annual gross receipts of $40,000 or less." As applied to this provision, however, a separate statute in the article limits the expenditure of proceeds derived from such a raffle to “those lawful religious, charitable, community or educational purposes” for which the nonprofit organization “is specifically chartered or organized.” As indicated in previous opinions of this Office, a political party is not an entity specifically chartered or organized for religious, charitable, community, or educational purposes. Therefore, it may not conduct a raffle as a form of charitable gaming in the Commonwealth.

Because a political party is not authorized under the Code to conduct a raffle, it is unnecessary for me to reach the particular question you ask regarding whether a political party’s raffle would be exempt from the charitable gaming permit requirement pursuant to § 18.2-340.23.

Conclusion

Accordingly, it is my opinion that a political party may not conduct a raffle as a form of charitable gaming in the Commonwealth, as it is not an entity specifically chartered or organized for religious, charitable, community, or educational purposes.

With kindest regards, I am,

Sincerely yours,

Mark R. Herring
Attorney General

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3 See VA. CODE ANN. § 18.2-340.16 (Supp. 2018) (providing also that the gross receipts from such a raffle, less expenses and prizes, must be used “exclusively for charitable, educational, religious or community purposes”).


5 See 1975 Op. Va. Att’y Gen. 208, 209 (“A city or county political committee is an association organized for political purposes as distinguished from being organized exclusively for community or educational purposes.”); 1986-1987 Op. Va. Att’y Gen. 166, 166-67 (county committee for a political party is not an organization “operated exclusively for religious, charitable, community or educational purposes”).

6 See also VIRGINIA DEPARTMENT OF ELECTIONS, SUMMARY OF LAWS AND POLICIES: POLITICAL PARTY COMMITTEES (rev. Oct. 28, 2014), at 21/43, available at https://www.elections.virginia.gov/Files/CandidatesAnd PACs/PoliticalCommittees/PoliticalParty/Party_Summary.pdf (stating that “political organizations in Virginia may not, under any circumstance, use raffles as a fundraising tool”). I note, moreover, that in 2015 the General Assembly declined to pass legislation that would have permitted political party committees to conduct charitable gaming in the Commonwealth. See H.B. 2389, 2015 Reg. Sess. (left in the General Laws Committee); see also generally Tabler v. Bd. of Supvrs., 221 Va. 200, 202, 269 S.E.2d 358, 360 (1980) (“In determining legislative intent, we have looked both to legislation adopted and bills rejected by the General Assembly.”) (Emphasis added).