



HENRY McMASTER  
ATTORNEY GENERAL

December 2, 2008

The Honorable Floyd Breeland  
Member, House of Representatives  
105 Moultrie Street  
Charleston, South Carolina 29403

Dear Representative Breeland:

We received your letter requesting an opinion on the “appropriate uses for revenue generated by South Carolina’s Omega Psi Phi Fraternity license plate.” You explain:

The Sixth District of the Omega Psi Phi Fraternity, Inc. is comprised of graduate and undergraduate chapters located in North Carolina and South Carolina. For a number of years, the Sixth District has pursued the goal of acquiring land and appurtenances suitable for operating its own boy’s camp. The Sixth District has formed Carolina Uplift Foundation, Inc., which is a 501(c)(3) entity whose mission is to acquire or construct a boy’s camp for the benefit of boys in North and South Carolina. Carolina Uplift Foundation, Inc. has already made significant strides to fulfill this mission. The legislation sanctioning Omega Psi Phi Fraternity license plate in North Carolina has already been amended to permit directing revenue towards the purchase of an existing facility or acquisition of land and construction of a boy’s camp. On behalf of the Sixth District, I am respectfully requesting a favorable opinion from you to permit the Sixth District to utilize funds generated from the sale of Omega’s South Carolina license plate in the same fashion.

#### **Law/Analysis**

As you mentioned in your request letter, section 56-3-7750 of the South Carolina Code (2006 & Supp. 2007)<sup>1</sup> allows the Department of Motor Vehicles to issue fraternity and sorority license

<sup>1</sup>The Legislature amended section 56-3-7750 in 2008 via act 347. 2008 S.C. Acts 3404. However, this amended pertained solely to subsection (A) of this statute and does not impact this opinion.

plates. Subsection (B) of this statute explains how the fees collected from the issuance of such license plates are to be used. This provision states:

The fees collected pursuant to this section must be distributed to a separate fund for each of the respective fraternities or sororities. Each fund must be administered by the fraternity or sorority and may be used for academic scholarships, or to fund programs that send boys and girls who are at least eight years old and not more than sixteen years old to summer camp, or both. Funds collected for each fraternity or sorority must be deposited in an account designated by the fraternity or sorority. The distribution is thirty dollars to the department and forty dollars to the respective fund.

S.C. Code Ann. § 56-3-7750(B)(Supp. 2007). Thus, the answer to your question depends on whether funding a fraternity or sorority's own camp constitutes a program that sends boys and girls to summer camp.

In interpreting the language contained in section 56-3-7750(B), we look to rules of statutory interpretation. As our Supreme Court recently stated:

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the Legislature. All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute.

Auto Owners Ins. Co. v. Rollison, 378 S.C. 600, 609, 663 S.E.2d 484, 488 (2008) (quotations and citations omitted).

From the language in this provision, we gather that the Legislature intended for the fees generated by the issuance of fraternity and sorority license plates to be used for scholarships or to assist in sending children to summer camp. The statute does not specifically address fraternities' and sororities' ability to establish their own camps. Thus, we are unsure as to whether the Legislature contemplated that license plate funds would be used for this purpose. However, a court may view a fraternity's or sorority's establishment of its own camp as furthering the Legislature's purpose of enabling children to go to summer camp as long as the funds are used to directly benefit the campers and are not solely for the benefit of the organization establishing the camp. Accordingly, under certain circumstances, we believe a court could find that a fraternity establishing its own camp is a permitted use of license plate funds under 56-3-7750. Nonetheless, some doubt as to whether a court would follow this interpretation remains. Thus, amending section 56-3-7750, as North Carolina has

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done, to specifically allow for the use of license plate funds to acquire or construct a camp is prudent under these circumstances.

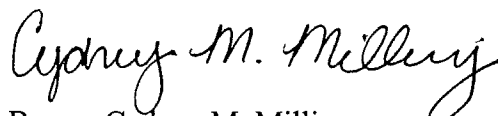
However, short of amending the statute we offer an additional suggestion. In reading your letter, you indicated that the fraternity in question, Omega Psi Phi, intends to provide the funds it receives to a separate nonprofit organization, which will construct and presumably operate the camp. Thus, because we are unsure as to how section 56-3-7750(B) may be interpreted with regard to your question, we suggest that Omega Psi Phi use its license plate revenues to pay for the cost of children attending Carolina Uplift Foundation's camp. This method of using license plate funds assures that the funds benefit the campers and that such expenditures are in compliance with section 56-3-7750.

#### **Conclusion**

While not completely clear from section 56-3-7750 of the South Carolina Code, we believe a court could find Omega Psi Phi Fraternity's use of license plate funds to build its own camp for children serves the intention of the Legislature. However, while we have some doubt as to whether the Legislature contemplated such an expenditure when it enacted section 56-3-7750(B). Thus, in addition to amending section 56-3-7750, we suggest that Omega Psi Phi Fraternity use the license plate revenue to send children to the camp established by Carolina Uplift Foundation, Inc.

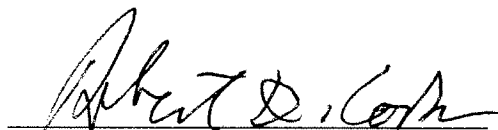
Very truly yours,

Henry McMaster  
Attorney General



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REVIEWED AND APPROVED BY:



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