

The State of South Carolina



Office of the Attorney General

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September 11, 1989

The Honorable Donna A. Moss
Member, House of Representatives
425-A Blatt Building
Columbia, South Carolina 29211

Dear Representative Moss:

In a letter to this Office you indicated that an eleemosynary organization, the South Carolina Peach Festival, Inc. has been approached by other organizations for contributions. You referenced that the charter of this organization states that any profits realized must go to a civic center. If, however, the organization is dissolved and funds remain, these funds may be distributed to other charitable organizations. You have asked whether this organization is bound by its charter or may such organization contribute to other eleemosynary organizations.

You supplied this Office with a copy of the bylaws of the South Carolina Peach Festival, Inc. Pursuant to Article II, the Festival is organized in part:

(d) To provide a means of obtaining funds for the future construction and maintenance of a civic center for the county by local government.

Article V, Section 1 (B) states:

(B) All money paid to the Peach Festival shall be placed in a general operating fund. Funds unused from the current year's budget will be designated for the next year's administration and activities with the excess deposited for a public Civic Center under local government.

Section 2 of such Article states in part:

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No obligation or expense shall be incurred other than the budget items and no money shall be appropriated without prior approval of the Executive Committee and final approval by the Board of Governors.

Article VII, Section 1 states:

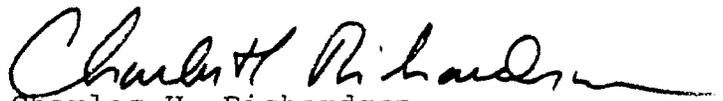
The Board of Governors shall use its funds only to accomplish the objects and purposes specified in these By-Laws and no part of said funds shall inure or be distributed to the members of the Peach Festival for personal gain. On dissolution of the Peach Festival, any funds remaining shall be distributed to one or more regular organized and qualified charitable, educational, scientific or philanthropic organizations to be selected by the Board of Governors.

As set out above, the purpose of the funds raised by the Festival is clearly specified. The bylaws state that the funds are to be used for the expenses of the Festival with any excess going to the construction and maintenance of a county civic center. If the Festival is ever dissolved, any remaining funds are to be allocated to other eleemosynary organizations.

Of course, any decision as to the expenditure of funds is a matter of policy. I would note that Article VI authorizes amendments to the bylaws of the Festival. Therefore, if alternatives to the distribution of funds of the Festival is desired, amendments to the bylaws may be considered.

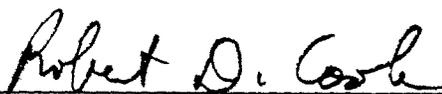
With best wishes, I am

Very truly yours


Charles H. Richardson
Assistant Attorney General

CHR/nnw

REVIEWED AND APPROVED BY:



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