



Ohio Elections Commission

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February 8, 2000

OHIO ELECTIONS COMMISSION

Advisory Opinion 2001ELC-03

SYLLABUS: The expenditure of campaign committee funds on an issue of public interest is a proper expenditure of those funds, even when there is no ongoing active campaign by a retired public office holder who maintains an open campaign committee.

TO: Peter M. Kostoff

You have requested an advisory opinion on the following issue:

Can a retired public office holder make an expenditure from an open campaign committee on an issue of public interest when that expenditure is not directly related to an active campaign?

The Ohio Elections Commission has responded numerous times to questions regarding proper expenditures from a candidate's campaign committee. All of those responses, however, have pertained to expenditures made by either a candidate or a public office holder while that person is either a candidate or a public official. This Commission has consistently stated that expenditures must either be campaign related, as defined in Ohio Revised Code §3517.01(B)(6), or expenditures related to the duties of public office, as allowed in R.C. §3517.13(O)(2). In this instance, however, the beneficiary of the campaign committee is neither a current officeholder, nor is he currently a candidate for public office as defined in R.C. §3517.01(B)(3). Nonetheless, the beneficiary of this campaign committee has maintained this campaign committee after leaving public office subsequent to a previous successful campaign.

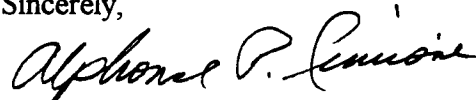
Your advisory opinion request letter states that you would like to make certain expenditures from your campaign committee funds relating to actions by your local city council to dispose of certain city real estate. You indicate that this is an issue of public policy and current local importance which may necessitate expenditures for both the general good of the community as well as possible legal action to assure that the city follows the proper procedures. In addition, one anticipated use would be to pay for legal advice for the possible preparation and submission of referendum petitions to the proper authorities to place this issue before the voters.

Even though you are not currently the holder of a public office or currently a candidate for public office as defined in R.C. §3517.01(B)(3), this Commission believes that R.C. §3517.13(O)(2) applies since the activity relates to events which occurred while you were in office and continue as a current public policy issue. Combining your current interest in this issue with your past involvement as the mayor, the relationship to your public office is sufficient to allow the expenditure of such funds. Therefore, the Commission believes that allowing an expenditure of campaign funds for this a purpose is legitimate and necessary, ordinary and verifiable under the terms of R.C. §3517.13.

It is important to note the fact that this Commission believes that there is a relationship with your prior activity as a public office holder in supporting this expenditure and is relying on this relationship as the basis for this opinion. If the interest in this property is a personal interest due to some relationship that you may have with this property, such expenditure would be improper. Revised Code §3517.13(O) is very clear in specifically prohibiting expenditures from a campaign fund for the "personal use" of the beneficiary of that campaign fund. The Commission believes that the prohibitions in the statutes apply to an expenditure such as this, if a personal interest is greater than the interest related to your previous duties as a public office holder. In this instance, however, the Commission believes, based on your representations, that your interest has no such personal factors and, therefore, the expenditure is appropriate.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that the expenditure of campaign committee funds on an issue of public interest is a proper expenditure of those campaign funds, even when there is no ongoing active campaign by a retired public office holder who maintains an open campaign committee.

Sincerely,



Alphonse P. Cincione
Chairman