

July 25, 2002

OHIO ELECTIONS COMMISSION

Advisory Opinion 2002ELC-03

SYLLABUS: A judicial candidate, who previously loaned money to his campaign committee in 1990, and his wife, will not be allowed to collect interest on these two existing loans.

TO: Janice O'Malley
Senior Clerk
Cuyahoga County Board of Elections

You have requested advisory opinions on the following issues:

Can a judicial candidate and his wife who previously loaned his campaign committee in 1990 be allowed to collect interest on these two existing loans?

A contribution is defined in Ohio Revised Code §3517.01(B)(5) as

a **loan**, gift, deposit, **forgiveness of indebtedness**, donation, advance, payment, transfer of funds or transfer of anything of value ... and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election. [emphasis added]

The contributions received by a campaign committee may only be used for particular purposes. This Commission has issued numerous opinions on the nature of campaign expenditures and the propriety of those expenditures. On a myriad of occasions, this Commission has applied the provisions of R.C. §3517.13(O), §3517.13(P) and §3517.13(Q) to certain campaign expenditures in an effort to clarify the types of expenditures for which a campaign committee may use its funds. The application of these provision is appropriate in the case before us.

R.C. §3517.13(O) places certain limits on the beneficiary of a campaign committee. Essentially, the beneficiary of the campaign fund (i.e. the candidate) may only be reimbursed for legitimate and verifiable, ordinary and

necessary prior campaign expenses. In previous advisory opinions this Commission defined the terms “legitimate and verifiable, ordinary and necessary” for use in describing proper campaign expenditures. The Commission has continued to rely on those definitions. In this instance, however, the Commission looks to the first paragraph of R.C. §3517.13(O) for assistance in responding to this question. The language in the first paragraph of this division states that

... no beneficiary of a campaign fund or other person shall convert for personal use, and no person shall knowingly give to a beneficiary of a campaign fund or any other person, for the beneficiary's or any other person's personal use, anything of value from the beneficiary's campaign fund ...

The terms in this section of law limit the ability of a “beneficiary of a campaign fund” or “any other person” from using campaign funds for their own benefit. Campaign funds are to be used for campaign purposes only and not for personal use. Those funds are to be used “for the purpose of influencing the results of an election” and not for the personal benefit of the candidate or any other person.

In this situation, the candidate and his wife loaned money to his own campaign committee. It is this Commission’s belief that a candidate receiving interest payments on a loan, made to his or her own campaign committee, is personally benefiting from the campaign fund. As stated previously, a loan is defined as a contribution. If a candidate makes a contribution to his or her own campaign committee, the candidate is doing so to assist the campaign and “for the purpose of influencing the results of an election.” Merely calling a personal contribution a loan does not sufficiently change the characteristics of the contribution to such an extent that the candidate, or any other person, can receive interest for making this contribution.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that a judicial candidate and his wife, who previously loaned money to his campaign committee in 1990, will not be allowed to collect interest on these two existing loans.

Sincerely,

Judith Sheerer
Chairman