

June 10, 2004

OHIO ELECTIONS COMMISSION

Advisory Opinion 2004ELC-01

SYLLABUS: A corporation cannot compromise or “write off” a debt which it is owed by any committee, as identified in R.C. §3599.03, to which it is prohibited from making a campaign contribution.

TO: Keith Wilkowski, Esq.

You have requested an advisory opinion on the following issue:

Can a corporation compromise or “write off” a debt which it is owed by a candidate campaign committee and still comply with the provisions of Ohio Revised Code §3599.03?

Ohio Revised Code §3599.03(A) holds that

... no corporation, no nonprofit corporation, ... directly or indirectly, shall pay or use, or offer, advise, consent, or agree to pay or use, the corporation's money or property, ... for or in aid of or opposition to a political party, a candidate for election or nomination to public office, a political action committee, a legislative campaign fund, or any organization that supports or opposes any such candidate, or for any partisan political purpose ...

The provisions in this statute prohibit a corporation from participating in any partisan political campaign activity in Ohio. The law not only applies to the corporation and its officers, but also to a “... candidate, political party official, or other individual ...” R.C. §3599.03(B). It includes both the corporation’s money or property and extends to the bare offer of such assistance and whether the offer or use is direct or indirect. This proscription against corporate involvement in candidate campaign activity in Ohio has been in place for nearly a century and the Commission believes that it would be inappropriate to limit the scope of this statute in this situation.

As reflected in Commission Advisory Opinion 96ELC-03, the state of Ohio first recognized the potential dangers of corporate involvement in the partisan electoral process by or on behalf of a candidate in 1908. The General Assembly declared at that time that the bill was intended "(t)o prevent the corruption of

elections and political parties by corporations." In the situation that is reflected by this advisory opinion request, the Commission believes that there is too great a possibility for potential corruption and no mechanism to monitor any such agreements. Merely by relying on the statutory language, the Commission believes that allowing any type of compromise or "write off" of an outstanding debt is a violation of this statute.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that a corporation cannot compromise or "write off" a debt which it is owed by any committee, as identified in R.C. §3599.03, to which it is prohibited from making a campaign contribution.

Sincerely,

William Booth
Chairman