

December 2, 2004

OHIO ELECTIONS COMMISSION

Advisory Opinion 2004ELC-03

SYLLABUS: A candidate's campaign account may be used to host a retirement party for the candidate at the conclusion of the candidate's term of office.

TO: Hon. Judge Nodine Miller
Franklin County Court of Common Pleas

You have requested an advisory opinion on the following issue:

Can a candidate's campaign account be used to host a retirement party for the candidate at the conclusion of the candidate's term of office?

Ohio Elections Commission Advisory Opinion No. 87-4 was the first time in which the Commission interpreted the words, legitimate, verifiable, ordinary and necessary, that are the key elements for determining the propriety of certain expenditures from a campaign fund. The Commission followed the issuance of this opinion with Advisory Opinion 87-13, which relies on the definitions established in 87-4 and established a "but-for" test to help determine the proper relationship between a candidate\officeholder and a campaign expense. The Commission's "but-for" test for such expenditures, states that "but for the fact that he/she is a candidate or officeholder, would he/she be making such an expenditure?"

Included in the list of items identified as proper campaign expenditures, and apropos to this response, are gifts to employees for special events, such as retirements, as well as Christmas parties and inauguration parties. These items are germane to this request as they identify certain types of expenditures which are closely related to the retirement party identified in your request. In allowing for the use of campaign funds for retirement gifts and Christmas parties for employees, the Commission said that such expenses "bear a rational relationship, to the duties of an officeholder" and "foster good employer-employee relationships." As to an inauguration party, the Commission stated that the costs of an inauguration party are "clearly related to being a candidate or the duties of an officeholder."

When applying the elements of these opinions to your situation, the Commission believes that the retirement party which you are planning comports with the parameters identified in Advisory Opinion No. 87-13. With your long tenure on the court, it is understandable that you would want to host a party for your supporters. Such an event would sustain the good relationships with employees and the goodwill of supporters that is valuable to any candidate and officeholder, even in retirement.

Considering the persons that you have indicated you intend to invite, it is readily apparent that “but-for” the fact that you have been both a candidate and a judge of the Common Pleas Court, you would not otherwise host such an event. In consideration for their efforts, however, you intend to host a party on the occasion of your retirement for “staff and court personnel” who have made non-monetary contributions and “friends and lawyers” who have supplied monetary support, and for whom you desire to express your appreciation. Such an expenditure is consistent with the parameters that the Commission established when it adopted advisory opinions 87-4 and 87-13.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that a candidate’s campaign account may be used to host a retirement party for the candidate at the conclusion of the candidate’s term of office.

Sincerely,

William Booth
Chairman