

July 18, 1988



Ohio Elections Commission
State Office Tower, 14th Floor
Columbus, Ohio 43266-0418
(614) 466-2585

ADVISORY OPINION NO. 88-2

SYLLABUS: For purposes of divisions (I) and (J) of Ohio Revised Code section 3517.13, contributions to a federal nonconnected political committee would also be considered contributions to the holder of a public office when the officeholder is closely identified with the committee, exercises decision-making influence within the committee, and derives a substantial benefit from contributions received by the committee.

TO: James M. Ruvolo, Chairman, Ohio Democratic Party.

You have requested an opinion on the following question:

Are contributions to a federal nonconnected political committee, with which the holder of a public office is associated, considered contributions to the officeholder or his campaign committee under divisions (I) and (J) of Ohio Revised Code section 3517.13?

The relevant facts as set forth in the request for an opinion are as follows: The political committee will be directed by a board of trustees who will also serve as the officers of the corporation. While the officeholder will not serve as an officer or trustee of the committee, he will be identified as the honorary chairman and/or founder of the committee and he will assist in raising funds for the committee. He will participate in making decisions as to when and to whom committee funds will be contributed or expended. He will travel at the committee's expense to meet with candidates, potential candidates, and other officeholders. Committee funds will be used to make contributions to federal, state and local candidates nationally, to support individuals for election to national, state and local Democratic Party offices, and for other lawful purposes, including the promotion and encouragement of progressive principles and candidates in the electoral process. None of the committee's funds will be used to directly promote the officeholder's own election to any public office. However, at least an incidental purpose of the committee is to build a national political and donor base that the officeholder might use in a possible future campaign for public office.

Ohio Revised Code section 3517.13, divisions (I) and (J), provide in part that:

[N]o agency or department of this state or any political subdivision shall award any contract, other than one let by competitive bidding, . . . for the purchase of goods costing more than five hundred dollars to [any of several entities enumerated therein whose owners or owners' spouses have individually made] within the two previous calendar years one or more contributions totaling in excess of one thousand dollars to the holder of the public office having ultimate responsibility for the award of the contract or to his campaign committee. (Emphasis added.)

The above statutory language specifically states that contributions to a public officeholder or his campaign committee must be considered for purposes of enforcing the contract bar in R.C.3517.13(I) and (J). The possibility of contributions, other than to the officeholder's official campaign committee

and other than for the purpose of the officeholder's own election, was clearly contemplated by the general assembly. R.C.3517.01(B)(1) defines a campaign committee as either the candidate himself or a group of two or more persons appointed by him to receive contributions and make expenditures in connection with his candidacy. Therefore, the term "campaign committee" is sufficient to include all contributions to a candidate or officeholder for his own election. However, for purposes of R.C. 3517.13(I) and (J), the general assembly chose to include more than contributions to the officeholder's own election. The phrase "contributions . . . to the holder of the public office" implies that more than contributions received in connection with the candidacy for such public office are included. Whether contributions to a federal nonconnected political committee, under the facts presented, would constitute contributions to the officeholder for purposes of R.C.3517.13(I) and (J), requires further consideration. Since statutory language does not specially address this question, the legislative and public policies behind the statute should be considered.


In Advisory Opinion No. 87-8, this commission held that contributions to a federal campaign committee of an individual currently holding office at the state or local level are encompassed within the ambit of R.C.3517.13(I) and (J). In so doing, the commission explained the important public policy of the statute and the rationale for its holding as follows:

R.C.3517.13(I) and (J) are designed to prohibit the awarding of unbid public contracts, or favoritism in their award, based on political contributions. The opportunity for corruption, favoritism, or the appearance of impropriety, in the award of a public contract is just as present whether contributions to the officeholder during the two calendar year period are made in connection with the office he presently holds or another office he is seeking or previously held or sought. Given that an individual may have a different campaign committee for each office for which he is or may be a candidate (See Advisory Opinion No. 87-7), the legislative intent of R.C.3517.13(I) and (J) could be circumvented by a contributor dividing his contributions between the committees. Aggregating contributions from the same contributor to different campaign committees of the officeholder with ultimate responsibility for the award of the unbid contract will insure that the legislative purpose is not subverted.

An incidental purpose of the committee is to build a national political and donor base for possible future candidacies of the officeholder by using committee funds to support other candidates for public and political party offices and by paying the travel expenses of the officeholder to meet with officials, candidates and potential candidates. Except with respect to candidates for federal offices, monies in the officeholder's own campaign fund could be used for such purposes. See, R.C.3517.13(O) and Advisory Opinion No. 87-3. There is no question that contributions deposited in the officeholder's campaign fund count toward the contract bar of R.C. 3517.13(I) and (J). The contributions that will be used for the purposes described herein equally benefit the officeholder, whether they are received through his official campaign committee or the political committee.

The officeholder in question is the founder of the committee and will be identified as the honorary chairman. He will participate in decisions on how committee funds will be spent. The committee will operate in fact or appearance as the alter ego of the officeholder. Therefore, under the facts presented, it is our opinion that the relationship between the political committee and the officeholder in question has such mutuality of identity that contributions to the committee are to be considered contributions to the officeholder for purposes of the public contract bar under R.C.3517.13(I) and (J).

For the reasons stated herein, it is the opinion of the Ohio Elections Commission that for purposes of divisions (I) and (J) of Ohio Revised Code section 3517.13, contributions to a federal nonconnected political committee would also be considered contributions to the holder of a public office when the officeholder is closely identified with the committee, exercises decision-making influence within the committee, and derives a substantial benefit from contributions received by the committee.


Larry H. James, Chairman