



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

January 22, 1990

ADVISORY OPINION NO. 90-2

SYLLABUS: When an officeholder who is statutorily barred from seeking re-election and who has disbanded his campaign committee and has filed a final report and who has not indicated an intention of seeking any other elected office and does not intend to do so, makes a charitable contribution, it is not for the the purpose of promoting a present or future candidacy. Therefore, it is not required to be reported pursuant to Ohio Revised Code section 3517.10.

TO: William Ammer, Judge, Pickaway County Court of Common Pleas

You have requested an opinion on the following question:

Is an officeholder who is statutorily barred from seeking re-election at any time and who has consequently terminated his or her campaign committee after filing the required final report required to report a contribution to a charitable organization from his personal funds pursuant to Ohio Revised Code section 3517.10?

In your inquiry, you refer to Advisory Opinion No. 89-4, the syllabus of which reads as follows:

An officeholder who purchases with his personal funds such items as emery boards, rulers, or pencils with his name and office printed thereon and distributes them for the purpose of promoting a possible future candidacy, or who purchases advertisements in publications of various organizations for the same purpose, must report such expenditures in compliance with Revised Code section 3517.10. (Emphasis added.)

The emphasized language of the syllabus is in accordance with R.C. section 3517.01(B)(3) wherein a candidate is defined as a person who has been certified for the ballot by elections officials and "also includes any person who, at any time before or after an election, receives contributions or makes expenditures or other use of contributions . . . for the purpose of bringing about his nomination or election to public office." (Emphasis added.) Advisory Opinion No. 89-4 goes on to state, "The purpose of the distribution of the described items or the purchase of the advertisements determines whether there is a contribution or expenditure under Chapter 3517 of the Revised Code."

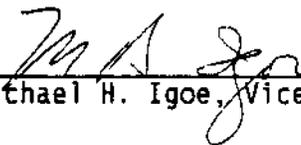
In Advisory Opinion No. 90-1 this commission ruled that there is a strong presumption that a charitable contribution is not made for the purpose of promoting a present or future candidacy. The presumption may be rebutted by a showing to the contrary.

When a future candidacy is prohibited by operation of law and the officeholder does not intend to be a candidate for any other office, then the purpose of the charitable contribution is not to promote a present or future candidacy. Consequently, the reporting requirements of R.C.3517.10 do not apply to the charitable contribution.

For the reasons stated herein, it is the opinion of the Ohio Elections Commission that:

When an officeholder who is statutorily barred from seeking re-election and who has disbanded his campaign committee and has filed a final report and who has not indicated an intention of seeking any other elected office and does not intend to do so, makes a charitable contribution, it is not for the the purpose of promoting a present or future candidacy. Therefore, it is not required to be reported pursuant to Ohio Revised Code section 3517.10.

APPROVED:

  
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Michael H. Igoe, Vice Chairman