



Ohio Elections Commission

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OHIO ELECTIONS COMMISSION

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Advisory Opinion 96ELC-14

William M. Connelly

Robert Duncan

SYLLABUS: The contribution limits in Ohio Revised Code §3517.102 are not applicable to bequests from a decedent's estate.

Norton Webster

Philip C. Richter
Executive Director

TO: Warren E. O'Hearn
Director of Finance
The National PAC

You have requested an advisory opinion on the following question:

Are the contribution limits in Ohio Revised Code §3517.102 applicable to bequests from a decedent's estate?

When the 121st General Assembly enacted the changes to Ohio's campaign finance laws in Amended Substitute Senate Bill 8 (SB8), it included Ohio's first limits on contributions to the campaign committees of candidates for the General Assembly and statewide elected offices and to certain other political entities, including Political Actions Committees (PACs). The language in Ohio Revised Code §3517.102 limits individuals, PACs, political parties, and campaign committees to contributions of \$2,500 during both the primary and the general election periods, for a total limit of \$5000 in an election cycle.

The limits in R.C. §3517.102(B) are specifically imposed on individuals [§3517.102(B)(1)], PACs [§3517.102(B)(2)], campaign committees [§3517.102(B)(3) & (5)], and political parties [§3517.102(B)(4) & (6)]. R.C. §3517.01(B)(8) defines a PAC as a combination of two or more persons, the primary or incidental purpose of which is to support or oppose any candidate, political party, or issue ... R.C. §3517.01(B)(1) defines a campaign committee as a candidate or a combination of two or more persons authorized by a candidate ... to receive contributions and make expenditures. R.C. §3517.01(A) defines a political party as a group of voters whose candidate for governor or nominees for presidential electors polled at least five per cent of the entire vote cast in that election or filed certain petitions with the Secretary of State.

The term individual is not defined in Title XXXV of the Ohio Revised Code. We must look elsewhere in the statutes in an effort to properly define an individual. The revised code defines an individual in only three locations, one of which is R.C. §5747.01(G), which defines an individual as any natural person. This definition is the clearest, most concise, and most applicable of the three. The Third Edition of Webster's International Dictionary defines an individual as a single human being as contrasted with a social group. None of these definitions is applicable to a decedent's estate.

Black's Law Dictionary defines a decedent's estate as the property, both real and personal, which a person possesses at the time of his or her death and title to it descends immediately to the heirs upon death subject to the control of the probate court. This definition indicates that the estate is a separate and distinct entity from the individual whose former assets are contained within it.

Ohio courts have adopted this finding in the case of Central Nat'l Bank v. Gilchrist, 23 OApp 87, 154 N.E. 811, which states that title to the personal property [of a decedent] passes by will to the executor, as trustee for the benefit of the creditors, legatees, and distributees, stating that the individual's interest in the property is extinguished at death.

Considering all of these definitions, a decedent's estate cannot fit within any of the those definitions applicable to the entities for which contribution limits apply. In order for the contributions limits of R.C. §3517.102 to apply to a decedent's estate, it must fit within the definition of an individual.

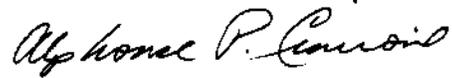
In the general provisions of the revised code at R.C. §1.59(C), the term "person" is defined as an **individual**, corporation, business trust, **estate**, trust, partnership and association. (emphasis added). It is important to note that the two words at issue in this opinion are used with equal weight to define the word person. When the General Assembly enacted SB8 it made numerous changes to the campaign finance laws in this state, encompassing a massive re-write to Ohio's campaign finance laws. In these changes, the General Assembly uses the term person liberally throughout chapter 3517. However, only in connection with campaign contributions or independent expenditures is the term "individual" used. This would indicate that the General Assembly chose to differentiate between the terms "person" and "individual" as used throughout this chapter.

The statutes over which the Commission has jurisdiction are all criminal statutes. As has been discussed in previous opinions, the Commission must strictly construe the language in these statutes against the state. Therefore, in stating its opinion, the Commission must limit the application of the term individual to that generally used in the code. The General Assembly has

restricted the use of the term "individual" to the limited contexts of campaign contributions and independent expenditures. However, it uses the term "person" more liberally throughout the chapter. The Commission must limit the definition of the word "individual" to that of a natural person. This interpretation would not include a decedent's estate.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that the contribution limits in Ohio Revised Code §3517.102 are not applicable to bequests from a decedent's estate.

Sincerely,



Alphonse P. Cincione
Chairman