



Ohio Elections Commission

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November 18, 1999

OHIO ELECTIONS COMMISSION

Advisory Opinion

99ELC-08

SYLLABUS: An expenditure of a candidate's campaign funds to make a contribution for another individual's legal expenses for a criminal conviction is not a proper expenditure of campaign funds.

TO: State Representative Barbara C. Pringle

You have requested an advisory opinion on the following issue:

Can a contribution be given from campaign funds to a fundraising event that is being held to raise money for another individual's legal expenses?

In the situation at issue, a former officeholder, who left office after being found guilty of criminal charges, has established a fund to help pay for legal fees related to the criminal conviction. A fundraiser is being held seeking contributions to this fund. Before making a contribution, the officeholder requesting this advisory opinion is judiciously seeking advice from the Commission as to the propriety of such an expenditure from her campaign funds.

In Advisory Opinion 96ELC-08, this Commission stated that an expenditure for legal fees to defend against criminal charges is an inappropriate campaign expense. The Commission stated that

(t)he conduct of the officeholder... is not, by any recognized principle or accepted standard, directly related to a duty of the public office. Moreover, public policy considerations require that an officeholder ... uphold the

faith and trust that the public has vested in that officeholder. In order to both uphold the public's faith in its officeholders and to make a clear statement ..., this Commission cannot approve an expenditure for legal fees in defense of these charges.

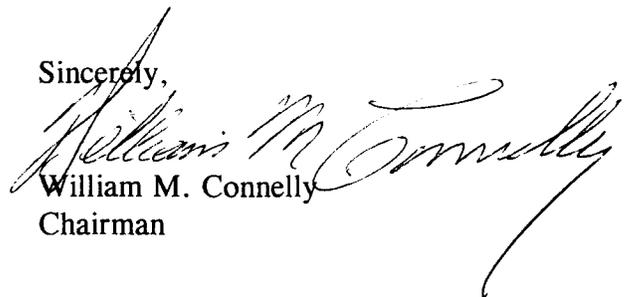
Obviously, this situation is not strictly the same as the situation that was the basis for Advisory Opinion 96ELC-08. The candidate seeking this opinion of the Commission is not the convicted party and so therefore is not the direct beneficiary of the expenditure. Further, the expenditure in this situation is being made to a legal defense fund and not directly to a lawyer for services rendered. Nevertheless, this expenditure is being made to demonstrate support for a one-time office holder who was convicted of a crime. This Commission stated in Advisory Opinion 87-9 that

(l)legal fees incurred by an officeholder in defending against ... [a] prosecution of criminal charges ... are not legitimate expenses related to the duties of a public office.

Regardless of whether the expenditure is being made for a direct payment for legal expenses related to criminal charges or to a "legal defense fund" for the benefit of a person who was convicted of a crime, the activities which lead to such charges and conviction cannot be directly related to a duty of the public office and therefore, are not legitimate or ordinary for purposes of Ohio Revised Code §3517.13(O)(2) in any manner.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that an expenditure of a candidate's campaign funds to make a contribution for another individual's legal expenses for a criminal conviction is not a proper expenditure of campaign funds.

Sincerely,



William M. Connelly
Chairman