



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

August 14, 1987

ADVISORY OPINION NO. 87-10

Syllabus: A candidate may not use campaign funds to pay a fine imposed directly upon the candidate by the Ohio Elections Commission for a violation of Revised Code section 3599.091, which prohibits certain campaign practices.

TO: Jon D. Richardson, Counsel to Arlene Singer

You have requested an opinion on the following question:

May a candidate or public officeholder use campaign funds to pay a fine imposed by the Ohio Elections Commission for a violation of Ohio Revised Code section 3599.091?

Division (O) of R.C. 3517.13 provides in part that no beneficiary of a campaign fund, i.e. the candidate or officeholder for whose benefit the fund exists, shall convert or accept for personal or business use anything of value from the campaign fund except as reimbursement for "Legitimate and verifiable prior campaign expenses incurred by the beneficiary". Ohio Revised Code section 3517.13(R)(1) provides that campaign funds may be used to directly pay for any expenses that may be reimbursed under R.C. 3517.13(O).

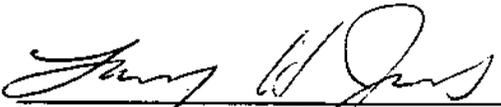
In Advisory Opinion No. 87-3, this commission stated that, "The effect of R.C. 3517.13(O) is that campaign funds may only be used for the purposes specified in that division or as otherwise authorized in the Revised Code." R.C. 3517.13(O) restricts the purposes for which campaign funds may be used to certain categories. The word "legitimate" further restricts the expenditures that may be made from campaign funds within those categories. This term is not defined in the Revised Code. However, its meaning has been previously considered by the commission in Advisory Opinions 87-3, 87-4, and 87-9. This commission has stated that legitimate expenses are those that are truly or validly related to a purpose set forth in R.C. 3517.13(O) according to recognized or accepted standards. See Advisory Opinion No. 87-9.

In Advisory Opinion No. 87-9, this commission held that an officeholder may not use campaign funds to pay for legal representation to defend himself against criminal charges related to activities in office. The commission ruled in that case that the legal expenses were not legitimately related to the duties of the public office.

Ohio Revised Code section 3599.091 prohibits candidates for public office from engaging in certain "unfair campaign practices", including making false statements concerning an opponent. This law sets the minimum standard for campaign conduct. Engaging in such prohibited practices, therefore, does not conform to recognized or accepted standards. Consequently, a fine imposed by the commission for a violation of R.C. 3599.091 is not a legitimate campaign expense and may not be paid for from the candidate's campaign fund.

Whether such an expense is "verifiable" need not be considered herein, since the expense is not "legitimate".

For the reasons stated herein, it is the opinion of the Ohio Elections Commission that a candidate may not use campaign funds to pay a fine imposed directly upon the candidate by the Ohio Elections Commission for a violation of Revised Code section 3599.091, which prohibits certain campaign practices.



Larry H. James, Chairman