



Ohio Elections Commission
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January 30, 1987

ADVISORY OPINION NO. 87-4

Syllabus: A state representative may pay an individual, other than him or herself, from campaign funds, for secretarial services legitimately related to the representative's campaign and/or his or her duties as a state representative.

TO: The Honorable Michael G. Verich, 59th District, House of Representatives:

You have requested an opinion on the following question:

May a state representative pay a secretary from his or her campaign funds for services including, but not limited to, answering constituent inquiries and scheduling meetings and functions related to the representative's campaign and the duties of his or her public office?

Ohio Revised Code section 3517.13(R)(1) provides that:

Division (O) or (P) of this section does not prohibit a campaign committee from making direct advance or post-payment from contributions to vendors for goods and services for which reimbursement is permitted under division (O) of this section, except that no campaign committee shall pay its candidate or other beneficiary for services personally performed by the candidate or other beneficiary.

Ohio Revised Code section 3517.13(O)(1) provides in part that, "No beneficiary of a campaign fund shall convert or accept for personal or business use . . . anything of value from the beneficiary's campaign fund . . . except as reimbursement for . . . legitimate and verifiable prior campaign expenses incurred by the beneficiary."

Ohio Revised Code section 3517.13(O)(2) provides in part that, "No beneficiary of a campaign fund shall convert or accept for personal or business use . . . anything of value from the beneficiary's campaign fund . . . except as reimbursement for . . . legitimate and verifiable, ordinary, and necessary prior expenses incurred by the beneficiary in connection with duties as the holder of a public office."

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 words "legitimate, verifiable, ordinary and necessary" are words of limitation, further restricting the expenditures that may be made from campaign funds within those categories. However, it should be noted that the words "ordinary and necessary" are not used in connection with campaign

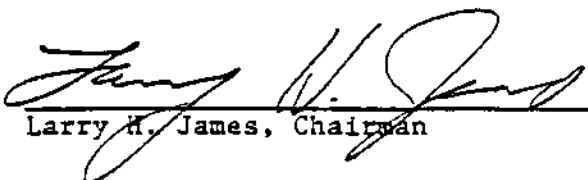
expenses. In order to determine whether expenditures for secretarial services would be appropriate under R.C. sections 3517.13(O)(1) and (2), the terms "legitimate, verifiable, ordinary, and necessary" must be defined. These terms are not defined in the Revised Code, but are defined in other sources.

Legitimate is defined as "conforming to recognized principles or accepted rules and standards", Webster's Third New International Dictionary (unabridged, 1971). Verifiable means able to be proven to be true, confirmed or authenticated. MacNeill v Maddox, 194 Ga. 802, 22 S.E. 2d 653, 654 (1942).

Ordinary and necessary have been most frequently used and defined in the tax context. Tax authorities have held that the character of the transaction which gives rise to the payment determines what is ordinary and necessary. Ordinary, in regard to business expense deductions, has been defined as "having or taking its place according to customary occurrences or procedure; usual; normal", Commissioner of Internal Revenue v Polk, 276 F. 2d 601, 603 (10th Cir. 1960). Necessary has been defined as that which is "appropriate and helpful" to accomplishing a particular end. Weich v Helvering, 290 U.S. 111 (1933).

The role of a state representative is to represent the interests of his or her constituents in matters before the Ohio General Assembly. In so doing, a state representative may have to meet with constituents and respond to their inquiries. Likewise, as part of campaigning for election or re-election, it is necessary to meet with individuals and engage in other activities related to being a candidate. Therefore, a payment to a secretary from campaign funds for clerical services related to accepted or recognized campaign activities and/or duties of a state representative is a legitimate expense. The payment is ordinary if it is for secretarial services related to customary, usual and normal campaign activities or duties of a state representative. In some cases an expense may be legitimate, but not ordinary. The payment is necessary because secretarial services are appropriate and helpful in responding to inquiries, scheduling meetings and performing other clerical tasks. The payment is verifiable if accurate records are kept to reflect the time spent on such secretarial services.

For the reasons stated herein, it is the opinion of the Ohio Elections Commission that a state representative may pay an individual, other than him or herself, from campaign funds, for secretarial services that are legitimately related to the representative's campaign and/or his or her duties as a state representative.


Larry H. James, Chairman

Member Harry J. Lehman recused himself from consideration of this opinion.

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