



Ohio Elections Commission
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May 29, 1987

ADVISORY OPINION NO. 87-9

Syllabus: A public officeholder may not use campaign funds to pay for legal representation to defend himself or herself against criminal charges of tampering with records, theft in office, falsification, and bribery.

TO: Theodore A. Urbanowicz, Friends of Judge G.J. Novicky

You have requested an opinion on the following question:

May a public officeholder use campaign funds to pay for legal representation to defend himself against charges of tampering with records, theft in office, falsification, and bribery?

Ohio Revised Code section 3517.13(O) provides in part that:

No beneficiary of a campaign fund shall convert or accept for personal or business use, and no person shall knowingly give to a beneficiary of a campaign fund, anything of value from the beneficiary's campaign fund, except as reimbursement for any of the following:

(2) Legitimate and verifiable, ordinary, and necessary prior expenses incurred by the beneficiary in connection with duties as the holder of a public office.

Ohio Revised Code section 3517.13(R)(1) provides that campaign funds may be used to directly pay for any expense 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 words "legitimate, verifiable, ordinary, and necessary" are words of limitation, further restricting the expenditures that may be made from campaign funds within those categories. These terms are not defined in the Revised Code, but their meaning has been previously considered by the Commission in Advisory Opinions 87-3 and 87-4.

"Legitimate" expenses are those that are truly or validly related to a purpose set forth in R.C. 3517.13(O). To be true or valid, an expense must conform to recognized principles or accepted standards. Thus, in the case of an expense under R.C. 3517.13(O)(2), the expense must be related, according to accepted standards, to a duty of the public office. See Advisory Opinion 87-4. Legal fees incurred by an officeholder in defending against an investigation or prosecution of criminal charges of tampering with records, theft in office, falsification and bribery are not legitimate expenses related to the duties of a public office.

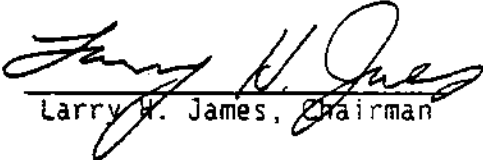
A public officeholder must perform the duties of his or her office, as

prescribed by law, to the best of his or her ability. An officeholder's duties do not include defending himself or herself against charges of criminal conduct. Therefore, any expenses incurred in such defense are not legitimate expenses related to the duties of the public office and may not be paid for from the officeholder's campaign funds.

In rendering this opinion, we need not address the question of whether such expenses are "verifiable, ordinary, and necessary" since they do not meet the requirements of being a "legitimate" expense in the first instance. Nothing in this opinion should be considered as prohibiting an officeholder from paying for any such legal expenses from other lawful sources, including a legal defense fund.

This opinion will be prospective in application.

For the reasons stated herein, it is the opinion of the Ohio Elections Commission that a public officeholder may not use campaign funds to pay for legal representation to defend himself or herself against criminal charges of tampering with records, theft in office, falsification and bribery.


Larry H. James, Chairman