



Ohio Elections Commission

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April 15, 1997

OHIO ELECTIONS COMMISSION

Advisory Opinion

97ELC-04

SYLLABUS: The Board of Elections, or the Secretary of State as appropriate, should submit a complaint to the Commission alleging a failure to file the campaign finance report for a final determination by the Commission, when an open campaign committee, established by the candidate, fails to file the reports required by R.C. §3517.10 when the candidate, who is also the treasurer, dies.

TO: Janice O'Malley
Cuyahoga County Board of Elections

You have requested an advisory opinion on the following question:

What recourse does the Board of Elections have when an open campaign committee, established by the candidate, fails to file the reports required by R.C. §3517.10 when the candidate, who is also the treasurer, dies?

In the situation which is the basis for this advisory opinion request, the Board of Elections attempted to notify the candidate of his responsibility to file the annual report, the candidate and treasurer being the same person. However, all correspondence was returned indicating that the candidate, the recipient of the notification, was deceased. In addition, the only reason that the campaign committee remains open is an outstanding loan which the candidate owed to himself. Therefore, not only can the loans not be forgiven, but there is no one with authority who can terminate the committee.

The statutes do not contemplate this situation. If Ohio Revised Code §§3517.10 and 3517.13 are given a strict interpretation, there is no possible resolution. It is unreasonable to assume that the law would accept such a void to the detriment of the persons the law is intended to protect. While there is obviously the need to ensure that the necessary and proper information is disclosed and that campaign committees are properly terminated, there is sufficient flexibility in the law to allow this Commission to declare campaign committees to be

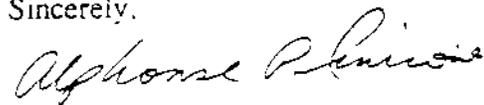
terminated and to instruct the Board of Elections that they need not require any further campaign finance filings of that committee.

This Commission believes that, as the entity responsible for maintaining the campaign finance records, the Board of Elections should obtain sufficient and reliable information from available sources that would provide satisfactory evidence to this Commission that the candidate, the beneficiary of the campaign committee, and the treasurer is deceased. The Board should then include this information along with the other information that the Board retains regarding each campaign committee along with a complaint form, and forward all of the pertinent information to the Commission. The Commission will then review each matter on a case by case basis and make the appropriate determination and, if necessary, determine a campaign committee to be closed for purposes of filing campaign finance reports.

The situation in this advisory opinion request deals with a campaign committee which had only outstanding loans owed to the candidate. The General Assembly should consider this circumstance, and other circumstances, for example a situation in which a campaign committee has outstanding loans to third parties, and enact a proper legislative response to rectify this omission in the law, with which the Commission stands ready to assist

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that the Board of Elections, or the Secretary of State as appropriate, should submit a complaint to the Commission alleging a failure to file the campaign finance report for a final determination by the Commission, when an open campaign committee, established by the candidate, fails to file the reports required by R.C. §3517.10 when the candidate, who is also the treasurer, dies.

Sincerely,



Alphonse P. Cincione
Chairman