

Senate Ethics Committee

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ADVISORY OPINION #93-2

To: Members, South Carolina Senate

From: Hugh K. Leatherman, Sr.
Chairman, Senate Ethics Committee

Date: April 13, 1993

Re: Use of Excess Campaign Funds for Ordinary Expenses

The Committee has received several requests for advisory opinions related to the expenditure of excess campaign funds for various purposes. The Committee has decided to address these several requests in a single opinion to give members an overview of the requirements of the controlling section of the Ethics Law, §8-13-1348(A).¹

Section 8-13-1348(A) provides:

No candidate, committee, public official, or political party may use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use. The prohibition of this section does not extend to the incidental personal use of campaign materials or equipment nor to an expenditure used to defray any ordinary expenses incurred in connection with an individual's duties as a holder of elective office.

The operative issue in each of the questions presented below is, "Is the desired expenditure being used to defray ordinary expenses incurred in connection with the member's duties as a Senator or is it a personal expense unrelated to such duties?"

¹This opinion applies only in the case of payments from an active campaign account. Payments made as final disbursements from an account must be in accordance with § 8-13-1370.

CONTRIBUTION TO COLLEGE DEMOCRATS

A member has asked whether she may make a contribution from her campaign account to the South Carolina College Democrats. Information accompanying her request indicates that the South Carolina College Democrats is an organization formed by the national Democratic party and the national College Democrats for the purpose of coordinating college activity in South Carolina and its local legislative districts. The letter from the College Democrats requesting the member's support indicates that she is being solicited because she is a "prominent Democrat."

The Committee concludes that contributions or dues paid by a member to a political or partisan group are generally office-related expenses; especially when, as in this case, the member is being asked to support the group because she is an officeholder.

The Committee cautions members, however, that contributions to political organizations should be clearly marked, "To be used only for ordinary administrative or operating expenses," in order to prevent the contributions from being recontributed to other campaigns or candidates in violation of the intent of § 8-13-1340.

CONTRIBUTION TO UNIVERSITY MOCK TRIAL TEAM

A member has asked whether he may make a contribution from his campaign account to the University of South Carolina Law School to help pay for the mock trial team's trip to a competition.

The Committee believes that, unlike in the previous case, this contribution is not related to the member's office or campaign but is more likely to be a personal expense not connected to the duties of the office. The Committee concludes that § 8-13-1348 prohibits the member from contributing from his campaign account to the University of South Carolina Law School Mock Trial Team.

PAYMENT FOR LEGAL RESEARCH

A member has asked whether he may use campaign account funds to pay for legal research regarding the constitutionality of pending legislation.

The Committee concludes that payment for legal research regarding pending legislation is related to a member's duties when the member intends to use such information to aid him in voting on the legislation.

The Committee notes that, in this case, the member has represented that he has no business or other personal use for the information concerning the legislation and that the member is not associated with the legal research firm receiving payment from his campaign funds. The existence of either fact could alter the opinion.

The member is cautioned that, in making this payment from his campaign account, he must follow the restrictions of § 8-13-1348(D) which provides, "[a]n expenditure may not be made that is clearly in excess of the fair market value of services, materials, facilities, or other things of value received in exchange."