



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 38

July 24, 1992

Whether an incorporated trade association sponsoring a convention may offer registrants two payment options: either to pay the trade association or to pay a lesser amount to a political committee. (AOR-49)

The Texas Ethics Commission has been asked to consider an arrangement between an incorporated trade association and a political committee, whereby the association would offer two options for registration at a convention sponsored by the trade association. An individual could register either by buying a \$225 ticket from the trade association or by paying \$195 to the political committee. This arrangement raises questions about campaign contributions under title 15 of the Election Code.

A campaign contribution is a direct or indirect transfer of money, goods, services, or any other thing of value that is intended to be used in connection with a campaign for elective office or on a measure. Elec. Code § 251.001(2), (3). Allowing a registrant to make a payment to the political committee instead of making a payment to the trade association would be a transfer of a thing of value from the trade association to the political committee. Thus the trade association would be making a campaign contribution of \$195 to the political committee each time a registrant selected the second option. *See generally* 11 C.F.R. § 110.6 (under federal election law, a contribution directed through an intermediary or conduit is a contribution from the person directing the contribution through the conduit or intermediary).

The trade association in question is a nonprofit corporation. Generally, corporations may not make political contributions. Elec. Code § 253.094. A corporation may, however, make campaign contributions from its own property to a political committee for supporting or opposing measures exclusively. *Id.* § 253.096. A corporation may make political expenditures to finance the establishment or administration of a general-purpose committee. *Id.* § 253.100(a). The requestor does not suggest that the payments in question would fall within the scope of these exceptions to the general prohibition on corporate contributions and expenditures. If neither of those exceptions is applicable, the trade association may not give registrants the option of paying a registration fee to the political committee rather than to the trade association.

SUMMARY

An incorporated trade association may not give individuals the option of making a payment for registration at a convention to a political committee rather than to the trade association. There would be exceptions to this rule for contributions to a political committee for supporting or opposing measures exclusively or for expenditures to finance the establishment or administration of a general-purpose committee.