



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 116

February 18, 1993

*Whether a candidate or officeholder may reimburse his political funds for personal use of an asset purchased with political contributions; whether a candidate or officeholder may use personal assets for political purposes; and related questions. (AOR-101)*

The Texas Ethics Commission has been asked a series of questions about prohibitions and reporting requirements under title 15 of the Election Code. First, the requestor asks whether it is permissible for an officeholder or candidate to reimburse his political funds for personal use of an asset purchased with political contributions. Section 253.035(a) of the Election Code provides that a "person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use."<sup>1</sup> That prohibition applies to the personal use of an asset purchased with the contribution. Elec. Code § 253.035(c). "Personal use" means a use that "primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office." *Id.* § 253.035(d). In our opinion, an item is not *converted to personal use* if the candidate reimburses his political funds on the basis of the reasonable value of the use.

The next question is whether it is permissible for a candidate or officeholder to use personal assets for political purposes.<sup>2</sup> A candidate or officeholder may use a personal asset for political purposes. The requestor also asks whether use of personal assets for campaign purposes must be reported. The use of a personal asset for political purposes is not required to be reported.<sup>3</sup>

Another question is whether a candidate or officeholder may reimburse himself from political contributions for the use of personal property for political purposes. *Compare* Elec. Code § 253.041. A candidate or officeholder may reimburse his personal funds from political contributions for the use of a personal asset for political purposes.<sup>4</sup>

The requestor also asks whether a candidate or officeholder may use corporate assets for campaign or officeholder purposes. Since the corporation's permitting a candidate or officeholder to use these assets would be a corporate contribution, such use would generally be prohibited by section 253.094.<sup>5</sup>

The requestor also describes a situation in which a third party buys a candidate a ticket to an event. While attending the event, the candidate promotes his own campaign, perhaps even raising funds for his campaign. The question arises as to whether the candidate must report the value of the ticket as a campaign contribution.

A campaign contribution is one given with the intent that it be used in connection with a campaign. *Id.* § 251.001(3). An expenditure required to be reported under the lobby law, chapter 305 of the Government Code, however, is excluded from the definition of "campaign contribution." *Id.* § 251.001(2)(B). The person who gives the candidate the ticket is required to report it as an expenditure under the lobby law if the donor gives the candidate the ticket in order to communicate with the candidate to influence legislation or administrative action and if the donor has crossed one of the thresholds for lobby registration. Gov't Code §§ 305.003, 305.006. If the ticket is not required to be reported as a lobby expenditure, the ticket would be a campaign contribution if given with the intent that it be used in connection with a campaign.

The final question concerns the reporting requirements applicable if an individual spends funds entertaining others in order to solicit campaign contributions to be made to the candidate. If the expenditure is incurred in cooperation, in consultation, or in concert with the candidate, or as a result of the candidate's request, suggestion, or agreement, it is a contribution to the candidate and must be reported by the candidate as in "in-kind" contribution. *See* Tex. Ethics Comm'n, Candidate/Officeholder Sworn Report of Contributions and Expenditures, Part X-02 (June 1992); *see also* Elec. Code §§ 254.031, 254.061.

If the expenditure is not a contribution, the money spent on the entertainment event is a direct campaign expenditure. Elec. Code § 251.001(8). If the host is an individual not acting in concert with another, and the direct campaign expenditure is more than \$100, the individual must report the expenditure as if the person were a specific-purpose political committee. *Id.* §§ 253.002, 253.062, 254.031. If a direct expenditure by an individual is less than \$100, there is no reporting requirement. *Id.* § 253.061. If the host is acting in concert with one or more other persons, the group of persons is a political committee and the direct expenditure is subject to the various requirements applicable to expenditures by political committees.

### SUMMARY

A candidate may not convert assets purchased with political contributions to personal use. An item is not converted to personal use if the candidate reimburses his political funds on the basis of the reasonable value of any personal use.

The use of a personal asset for political purposes is not required to be reported under title 15. A candidate may reimburse his personal funds from political contributions for use of personal assets for political purposes.

A corporation would be making a political contribution if it permitted the use of corporate assets for campaign or officeholder purposes.

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<sup>1</sup> An asset purchased with political contributions is subject in its entirety to the restrictions set out in title 15, even if part of the asset is purchased with personal funds. [Ethics Advisory Opinion No. 13](#) (1992); *see also* [Ethics Advisory Opinion No. 50](#) (1992) (application of Ethics Advisory Opinion No. 13 to lease of car).

<sup>2</sup> We use the term "political purposes" to include campaign and officeholder purposes. *See generally* Elec. Code § 251.001(5), (10).

<sup>3</sup> It is important to make a distinction between the use of a personal asset for political purposes and a political expenditure from personal funds. If a candidate makes a *payment* from personal funds in connection with a campaign or officeholder activity, the payment is reportable as a campaign expenditure. Elec. Code § 254.031(a)(3). In order to reimburse his personal funds from political contributions, the candidate must report the expenditure in accordance with section 253.035(h). *See also id.* § 253.042. If an *officeholder* makes a payment in connection with an officeholder activity, the payment is required to be reported only if the officeholder seeks reimbursement from political contributions. *Id.* § 254.093; *see id.* §§ 253.035(h), 253.042.

<sup>4</sup> Questions about reimbursement for political use of a car arise frequently. In these circumstances, reimbursement at the rate set in accordance with section 14(1)(a) of article V of the Appropriations Act or any other reasonable rate is appropriate. Acts 1991, 72d Leg., 1st C.S., ch. 19, art. V, § 14(1)(a), at 1013. A payment to the candidate or officeholder from political contributions for the use of the candidate's or officeholder's property must be reported as a political expenditure. Elec. Code § 254.031(a)(3).

<sup>5</sup> Corporations are prohibited from making political contributions and political expenditures except for those specifically authorized by section 253.094 of the Election Code.