



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 168

September 2, 1993

Whether a general-purpose political committee may use corporate contributions to pay for expenses connected with a meeting featuring a speaker on topics of interest; whether a general-purpose committee must include the name of a corporation in its own name if the corporation designates some individuals to serve on the board of trustees of the political committee. (AOR-185)

The Texas Ethics Commission has been asked to respond to two questions concerning a general-purpose political committee. The first question is whether such a political committee may use corporate contributions to pay for expenses connected with the committee's sponsorship of "forums" for "distinguished guests to speak on subjects of vital and timely interest to its members."¹ Expenses associated with these forums include the cost of meeting space and food provided to those in attendance. Currently, the political committee pays these expenses itself from non-corporate funds.

The requestor's concern relates to the general prohibition against the use of corporate funds for making political contributions or political expenditures. *See* Elec. Code ch. 253; [Ethics Advisory Opinion No. 132](#) (1993). Before it is necessary to reach the issue of whether the expenditures in this case would fit under any exception to this general rule, it is necessary to consider whether they would qualify as political expenditures in the first place. In [Ethics Advisory Opinion No. 131](#), the commission recognized that a general-purpose committee may have other purposes besides accepting political contributions and making political expenditures. [Ethics Advisory Opinion No. 131](#) at 1 (1993). Contributions given to a general-purpose committee for such purposes are not regulated by title 15 of the Election Code.

The general-purpose committee at issue in [Ethics Advisory Opinion No. 131](#) engaged in lobbying activity. The opinion determined that contributions earmarked for payment of lobbying costs did not come within the definition of political contributions, because the contributions were restricted to a use that is not governed by title 15 of the Election Code. Elec. Code § 251.001(3), (4), (10). Whether corporate contributions to underwrite the expenses of the forums are given with the intent necessary to make them political contributions is a fact question to be determined on a case-by-case basis.² If the speakers at the forums are not themselves candidates or officeholders, or if the speakers do not advocate the election of particular candidates, the support of particular officeholders, or the passage of measures, costs associated with the forums probably are not regulated by title 15. If not subject to title 15, corporate contributions for the forums are permissible.

If, on the other hand, the context and content of a forum indicates that it is connected with activity regulated by title 15, contributions to finance the forum are political contributions.³ In that case, the corporation may properly make those expenditures only if the expenditures fit within an exception to the general rule prohibiting corporate political activity.⁴ The only exception that might be applicable in the situation before us would be the exception allowing a corporation to make a direct campaign expenditure in connection with an election on a measure. *See id.* §§ 251.001(8) (defining "direct campaign expenditure"), 253.097 (authorizing corporations to make direct campaign expenditures in connection with an election on a measure). We note particularly that expenditures in

connection with the forums are not administrative expenses of the general-purpose committee, and are therefore not within the section 253.100(a) exception discussed in [Ethics Advisory Opinion No. 132](#).

The requestor also asks about a situation in which a corporation designates individuals to serve on the board of trustees of a political committee. Specifically, the requestor inquires whether the general-purpose committee in such a case would be required to include in its name the name of the corporation.

Election Code section 252.003(d) provides the following:

The name of a general-purpose committee must include the name of each corporation, labor organization, or other association or legal entity other than an individual that directly establishes, administers, or controls the committee.

In [Ethics Advisory Opinion No. 145](#), the commission interpreted this provision to mean that "a general-purpose committee must include in its name the name of a legal entity that *plays a role in the decisionmaking process of a general-purpose committee*." [Ethics Advisory Opinion No. 145](#) at 2 (1993) (emphasis added). A corporation that designates individuals to serve on the board of trustees of a general-purpose committee clearly plays a role in the decisionmaking process of the committee.

The requestor has further asked whether our answer would change if the corporation designated less than a majority of the individuals serving on the committee board. We do not believe that section 252.003(d) can be read to apply only to entities that can dominate the policy of the political committee. The statute specifically requires that the name of *each* entity that directly establishes, administers, or controls the committee be included in the committee's name. By so doing, the statute plainly contemplates that more than one entity might exercise the requisite influence over the committee to trigger the section 252.003(d) requirement. Interpreting the statute to apply only if the entity has majority control of the committee would essentially read the word "each" out of the statute. Therefore we conclude that the name of a corporation that designates individuals to serve on the board of a general-purpose committee must be included in the name of the political committee, whether or not the individuals designated by the corporation constitute a majority on the board.

SUMMARY

A corporation may pay the expenses of a forum sponsored by a political committee if the content of the forum is unrelated to activities governed by title 15 of the Election Code. The name of a corporation that designates individuals to serve on the board of a general-purpose committee must be included in the name of the political committee, whether or not the individuals designated by the corporation constitute a majority on the board.

¹ The requestor also asks whether corporations could pay for the forum expenses directly, as an alternative to contributing funds to the political committee for this purpose. In [Ethics Advisory Opinion No. 132](#), the commission determined that a corporation could make expenditures permitted under Election Code section 253.100(a) on behalf of a general-purpose committee either by paying the costs directly or by transferring to the political committee funds restricted to the payment of such expenses. [Ethics Advisory Opinion No. 132](#) (1993).

² Title 15 of the Election Code governs campaign contributions, officeholder contributions, and contributions in connection with a measure. Essentially, campaign contributions are contributions given with the intent that they be used to support or oppose a candidate for election to a public office. Elec. Code § 251.001(3). Officeholder contributions, in essence, are contributions given to assist an officeholder in activities of his office. *Id.* § 251.001(4). Contributions in connection with a measure are contributions given with the intent that they be used to support or oppose a measure. *Id.* § 251.001(3), (4). Corporations may make certain direct expenditures in connection with a measure. *Id.* § 253.097. Also, corporations may make contributions to a committee for supporting or opposing measures exclusively. *Id.* § 253.096.

³ Even if no explicit endorsement of a candidate is made and contributions to the candidate are not explicitly solicited, a general-purpose committee's presentation of an opposed candidate for office as a guest speaker during an election cycle might nevertheless be activity in connection with an election. See [Ethics Advisory Opinion No. 132](#) at 4 (1993).

⁴ See Elec. Code §§ 253.097 (corporation or labor organization may make direct campaign expenditure in connection with election on measure), 253.098 (corporation or labor organization may make direct campaign expenditures to communicate directly with its stockholders or members, as applicable, or their families), 253.100 (corporation or labor organization may make political expenditures to finance the establishment or administration of general-purpose committee, and to solicit contributions to the committee from its employees, stockholders, or members, as applicable, and their families). Section 253.100(a), allowing corporations to pay administrative expenses of a general-purpose committee, would not apply to expenses associated with a forum that is determined to be in connection with an election. See [Ethics Advisory Opinion No. 132](#) (1993).