



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 170

*November 18, 1993*

*Whether a former speaker candidate may return to contributors surplus funds contributed for use in a campaign for speaker of the house of representatives. (AOR-186)*

The Texas Ethics Commission has been asked whether a former candidate for speaker of the house of representatives may return to contributors unused funds contributed for use in his campaign for speaker.

Campaign funds for speaker candidates are governed by chapter 302 of the Government Code. For purposes of chapter 302, a "speaker candidate" is a member of or candidate for the house of representatives who has announced his candidacy for speaker of the house of representatives or who "by his actions, words, or deeds seeks election to" the office of speaker. Gov't Code § 302.011(1). "Campaign funds" are the "speaker candidate's personal funds that are devoted to the campaign for speaker and any money, services, or other things of value that are contributed or loaned to the speaker candidate for use in the candidate's campaign for speaker." *Id.* § 302.011(3). Section 302.020 provides that a speaker candidate may expend such campaign funds for the following purposes:

- (1) travel for the speaker candidate and the speaker candidate's immediate family and campaign staff;
- (2) the employment of clerks and stenographers;
- (3) clerical and stenographic supplies;
- (4) printing and stationery;
- (5) office rent;
- (6) telephone, telegraph, postage, freight, and express expenses;
- (7) advertising and publicity;
- (8) the expenses of holding political and other meetings designed to promote the candidacy;
- (9) the employment of legal counsel; and
- (10) the retirement of campaign loans.

Under section 302.021(a)(3), a speaker candidate commits an offense if he expends campaign funds for any purpose other than those set out above.

The legislature that enacted chapter 302 apparently did not anticipate the possibility of surplus funds. *Cf.* Elec. Code § 254.204 (disposition of unexpended contributions under title 15 of the Election Code). This gap in the statute leads to the result that no "expenditure" of surplus speaker campaign funds is permissible. For this reason, we interpret the term "expends" in section 302.021(a)(3) narrowly to conclude that a former speaker candidate

who returns contributions to contributors would not be "expending" those contributions within the meaning of section 302.021(a)(3). Rather, he would be returning them to their source.<sup>1</sup> Therefore we conclude that a former speaker candidate may return contributions for the speaker's race to contributors.<sup>2</sup>

### SUMMARY

A former speaker candidate may return contributions for the speaker's race to contributors.

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<sup>1</sup> This reading of the word "expend" also applies to the corresponding Ethics Commission rule. See 18 Tex. Reg. 7058, adopted 18 Tex. Reg. \_\_\_\_ (1993) (to be codified at title 1, section 28.7, of the Texas Administrative Code).

<sup>2</sup> Our conclusion permits a former candidate for speaker to return to a contributor no more than the amount the contributor contributed and interest accrued on that amount.