



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 258

April 13, 1995

Reimbursement from political contributions for political expenditures made from personal funds and reported as loans. (AOR-289)

The Texas Ethics Commission has been asked whether it is permissible for a candidate to reimburse himself from political contributions for political expenditures made from personal funds and reported as loans from the candidate on Schedule E of the candidate report of contributions and expenditures (Form C/OH). Section 253.035(h) of the Election Code provides as follows:

Except as provided by Section 253.042, a candidate or officeholder who makes political expenditures from his personal funds *may reimburse his personal funds from political contributions in the amount of those expenditures only if:*

- (1) the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made; and
- (2) the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. (Emphasis added.)

See Ethics Advisory Opinion No. 195 (1994). The Ethics Commission has adopted reporting forms to implement the provisions of the campaign finance law. Information about political expenditures made from personal funds, including the payees, dates, purposes, and amounts of the expenditures, is to be reported on Schedule G of Form C/OH. For each expenditure reported on Schedule G, the filer has the option of checking a box indicating that the expenditure is subject to reimbursement from political funds. By reporting an expenditure on Schedule G and checking the box, a filer has taken the steps necessary to allow the filer to reimburse his personal funds from political contributions.

Before the 71st Legislature adopted Senate Bill 1, creating the Texas Ethics Commission and enacting Election Code section 253.035(h), the Office of the Secretary of State had advised candidates and officeholders to report their use of personal funds for political purposes as loans to their campaigns if they intended to reimburse themselves from political contributions. *See* letter from George S. Bayoud, Jr., Secretary of State, to Terry Langehennig, April 27, 1990, *citing State Ethics Advisory Commission Opinion No. 84-27* (1984) (copy available from the Ethics Commission). The Secretary of State and the State Ethics Advisory Commission acknowledged that moving funds from a candidate's "personal" bank account to an account used for campaign purposes does not effect a "transfer" of funds reportable under title 15 of the Election Code and is therefore technically not a reportable contribution or loan. *See Ethics Advisory Opinion No. 230* (1994). Nevertheless, the Office of the Secretary of State recommended reporting the transfer of funds as a "loan" to the candidate in order to evidence the candidate's intention to reimburse himself at a later date from political contributions. In this way, the candidate would show that he was not violating the personal use prohibition when reimbursing himself from

political contributions. Although the law now sets out a specific procedure for reporting the use of personal funds for political purposes, it seems that the characterization of the use of personal funds as a "loan" from the candidate to himself remains a common practice. The question raised here is whether a filer who reports a loan to himself may repay his personal funds from political contributions even if he did not report the expenditures from the money "loaned" on Schedule G.

Under Election Code section 253.035 reimbursement of personal funds from political contributions is permissible only if certain reporting requirements are satisfied. Section 253.035 requires that expenditures from personal funds be clearly designated as such on the report covering the period during which the expenditures were made. In our opinion, when a candidate reports a loan from himself to his "campaign," he clearly indicates that he is using personal funds for political purposes. The law also requires that the report indicate that the funds are subject to reimbursement. Again, we feel that characterization of funds as a "loan" clearly indicates the intention that there be reimbursement. Because this method of reporting results in substantial compliance with the provisions of section 253.035(h), we feel that prohibiting reimbursement from political funds would unfairly penalize an individual who reported the use of personal funds in a campaign as loans to himself. Although the technically correct way to report the use of personal funds is to disclose expenditures made from these funds on Schedule G, we believe that a candidate who has reported his use of personal funds for political expenditures as loans to his campaign is not prohibited from reimbursing himself from political contributions in the amount of the personal funds spent for political purposes.

SUMMARY

Although the technically correct way to report the use of personal funds is to disclose expenditures made from these funds on Schedule G of Form C/OH, a candidate who has reported his use of personal funds for political expenditures as loans to his campaign is not prohibited from reimbursing himself from political contributions in the amount of the personal funds spent for political purposes.