



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 262

May 12, 1995

Whether a corporation's extension of credit to a candidate for the purchase of goods and services violates chapter 253 of the Election Code. (AOR 292)

The Texas Ethics Commission has been asked whether a corporation may legally extend credit to a candidate for the purchase of goods and services. The requestor states that the normal practice of the corporation in question is to give its customers 30 days from the date of sale to pay for the goods and services it provides. Additionally, the corporation allows some customers, including candidates, to carry balances past the end of the 30-day period, sometimes as long as six months.

Corporations are generally prohibited from making political contributions to candidates. *See* Elec. Code § 253.094; [Ethics Advisory Opinion No. 143](#) (1993). A political contribution is a direct or indirect transfer of money, goods, services, or any other thing of value *that is offered or given with the intent that it be used in connection with a campaign* or to defray officeholder expenses that are not reimbursable with public money. Elec. Code § 251.001(2) -(5). The definition includes loans and extensions of credit, other than loans made "in the due course of business" by a corporation that has been legally engaged in the business of lending money continuously for at least one year. *Id.* § 251.001(2)(A).

The commission noted in a previous opinion that not all commercial transactions connected with campaigns result in political contributions, despite the fact that "transfers" of things of value take place. Rather, "by specifying that the transfer be made with the intent that it be used in connection with a campaign or to defray officeholder expenses, the legislature meant to exclude transfers made in connection with normal business transactions." [Ethics Advisory Opinion No. 143](#) at 2. The intent of a corporation that grants an extension of credit to a candidate is crucial in deciding whether the corporation has made an illegal political contribution.

If the corporation extends credit to a candidate on the same terms as it does to other customers, it is likely that the extension of credit is simply normal business practice rather than a contribution to the candidate's campaign. Whether a corporation extended credit to a candidate with the intent to aid the candidate's campaign is ultimately a fact question that must be decided on a case-by-case basis. *See* [Ethics Advisory Opinion No. 143](#).

The proper way for a candidate to report a transaction in which goods are purchased on credit is to report the full amount of the expenditure on the report covering the period in which the purchase agreement was made. The date of the purchase agreement, and not the date the actual payment is made, is the relevant date for campaign finance reporting purposes. *See* Texas Ethics Commission Rules, 1 T.A.C. § 20.57.

SUMMARY

A corporation that extends credit to a candidate does not make an illegal political contribution, provided that the extension of credit is motivated by normal business practice rather than an intent to aid the candidate's campaign. Whether a corporation extended credit to a candidate with the intent to aid the candidate's campaign is a fact question.