



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 280

October 13, 1995

Whether an incorporated hospital may finance certain costs connected with fundraising for a political committee. (AOR-314)

The Texas Ethics Commission has been asked whether an incorporated hospital may finance certain costs of fundraising activities to benefit a general-purpose political committee it has established. The fundraising activities include a golf tournament, a barbecue lunch, and a "t-shirt" sale.

Although corporations generally may not make political contributions and expenditures, there are several circumstances under which they may use corporate funds for political purposes. These include making certain expenditures to support a general-purpose committee, as set out in Election Code section 253.100. Section 253.100 provides in part the following:

- (a) A corporation, acting alone or with one or more other corporations, may make one or more political expenditures to finance the establishment or administration of a general-purpose committee.
- (b) A corporation may make political expenditures *to finance the solicitation of political contributions to a general-purpose committee assisted under Subsection (a) from the stockholders, employees, or families of stockholders or employees of one or more corporations.* (Emphasis added.)

See also [Ethics Advisory Opinion No. 163](#) (1993). We will consider the application of section 253.100 to each of the situations posed by the requestor.

The golf tournament. The hospital proposes to pay for green fees, lunch, and small token prizes (awarded in connection with contests) for a golf tournament to benefit the political committee. Invitees would include physicians who have been granted privileges to practice at the hospital by the board of trustees, as well as hospital employees. The requestor notes that doctors "generally sign up guests that are not employees of the hospital." The requestor informs us that the doctors are not employed by the hospital. If neither the doctors nor their guests are stockholders or employees of the hospital corporation or family members of stockholders or employees, the corporation may not finance any part of the costs of the tournament attributable to their attendance. See [Ethics Advisory Opinion No. 163](#) at 2-3 (corporation may not pay costs of political committee fundraiser attributable to the attendance of people outside a corporation's "solicitable class").

As for the costs attributable to employees of the hospital and their families, the costs of food, beverages, invitations, and a meeting place for a fundraising event are permissible solicitation costs. Green fees for a golf tournament and the cost of small token prizes for winning a skill contest at the event are also permissible solicitation costs.

The barbecue lunch. The requestor states that the hospital would pay for the food served at the barbecue lunch, to which employees would be invited. The invitations would state that a ticket purchase would constitute a donation to the political committee. Under these circumstances, the cost of the food attributable to hospital

employees and their families would be a permissible corporate expenditure. See [Ethics Advisory Opinion No. 163](#).

The t-shirt sale. The hospital proposes to raise funds for the political committee by buying t-shirts and selling them to employees. The hospital would inform the employees that the purchase of a t-shirt would constitute a contribution to the political committee. In analyzing this question, it is important to remember that the legal basis for corporation participation in these events is that the corporation may pay the costs of *soliciting contributions* from a limited class of persons to a general-purpose political committee. We think sales items that are not immediately consumed are more likely to lead to abuse of the "solicitation costs" exception than items such as meals and golf tournaments.

Although the distinction between the use of a sale item to solicit a contribution and a straightforward sale of corporate property is a fine one, one way to assure that corporate donations of sale items are used to solicit contributions is to follow the federal "one-third" rule. Under that rule, the political committee must reimburse the corporation for the portion of the cost of a donated sale item that exceeds one third of the amount raised by selling the item. 11 C.F.R. § 114.5(b)(2). This rule prevents possible abuse of the "solicitation costs" exception by limiting the types of sales of corporate property that can be treated as solicitations. We conclude, therefore, that no prohibited corporate contribution will occur in the situation described here if the hospital's political committee complies with the federal "one-third" rule as to sale items donated by the hospital.¹

SUMMARY

An incorporated hospital may finance the costs of green fees and small token prizes in connection with a golf tournament fundraiser for the hospital's general-purpose committee to the extent that costs are attributable to stockholders or employees of the hospital or to the families of stockholders or employees. The hospital may pay for t-shirts sold to corporate employees and their families to raise funds for the political committee if the sale complies with the Federal Election Commission's "one-third" rule.

¹ Even under the one-third rule, of course, t-shirts paid for by the hospital may be sold only to stockholders and employees of the hospital or to the families of stockholders and employees.