



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 383

December 12, 1997

*Whether a limited liability company may make a political contribution to a candidate.
(AOR-419, AOR-420)*

The Texas Ethics Commission has received several requests for opinions asking whether a limited liability company may make a political contribution to a candidate. The requests raise questions about limited liability companies organized in Delaware as well as limited liability companies organized in Texas.

The Texas Election Code restricts political contributions and expenditures by corporations and labor organizations. Elec. Code ch. 253, subch. D. The restrictions apply to corporations organized under the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, federal law, or the law of another state or nation.¹ *Id.* § 253.091. A Texas limited liability company is organized under V.T.C.S. article 1528n, not under one of the statutes cited in Election Code section 253.091.

A Delaware limited liability company would be subject to the restrictions in Election Code chapter 253, subchapter D, if it could be characterized as a "corporation organized under the law of another state." Under Delaware law, however, a limited liability company is organized under a different statutory scheme from a Delaware corporation. *See* Del. Code Ann. tits. 6 ("Limited Liability Company Act"), 8 ("General Corporation Law"); *see also* Federal Elec. Comm'n, Advisory Opinion 1997-17, (CCH Federal Election Campaign Financing Guide • 6247) (discussing states' treatments of limited liability companies as entities distinct from corporations and partnerships). We conclude, therefore, that a Delaware limited liability company is not "a corporation organized under the laws of another state" for purposes of the restrictions in Election Code chapter 253, subchapter D.

The remaining question is whether a limited liability company may make a political contribution to a candidate if the company is owned in whole or in part by a corporation subject to the restrictions in Election Code chapter 253, subchapter D. In opinions considering whether a partnership with corporate partners is subject to the restrictions in Election Code chapter 253, subchapter D, we have followed the principle that corporate money may not be used to fund candidates' election efforts. [Ethics Advisory Opinion Nos. 221, 215](#) (1994). That principle applies in this case as well. We conclude, therefore, that a limited liability company owned in whole or in part by a corporation is subject to the restrictions in Election Code chapter 253, subchapter D.² *See generally* Federal Elec. Comm'n, *supra* (concluding that limited liability companies with corporate members are subject to the restrictions on corporate political activity in the federal campaign finance law).

SUMMARY

A Texas limited liability company is subject to the restrictions in Election Code chapter 253, subchapter D, if it engages in a type of business listed in Election Code section 253.093 or if it is owned, in whole or in part, by an entity subject to the restrictions in Election Code chapter 253, subchapter D.

A Delaware limited liability company is subject to the restrictions in Election Code chapter 253, subchapter D, if it engages in a type of business listed in Election Code section 253.093 or if it is owned, in whole or in part, by an entity subject to the restrictions in Election Code chapter 253, subchapter D.

¹ The restrictions also apply to associations engaged in certain types of business, regardless of how the associations are organized. Elec. Code § 253.093. Thus, a limited liability company is subject to the restrictions in Election Code chapter 253, subchapter D, if it engages in a type of business listed in Election Code section 253.093.

² The restrictions also apply to the limited liability company described in one of the requests that is owned in part by another limited liability company that is owned in part by a corporation subject to the restrictions in Election Code chapter 253, subchapter D.