



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 497

April 21, 2011

Whether a general-purpose political committee may raise contributions from corporations to defray legal expenses incurred in defending against defamation lawsuits filed against the committee and its campaign treasurer and whether such contributions are required to be disclosed on campaign finance reports. (AOR-559)

The Texas Ethics Commission has been asked whether a general-purpose political committee may raise contributions from corporations to defray legal expenses incurred in defending against defamation lawsuits filed against the committee and its campaign treasurer and whether such contributions are required to be disclosed on campaign finance reports.

The requestor is the campaign treasurer of a general-purpose political committee that opposed a candidate for public office. The requestor states that the candidate filed a defamation lawsuit against the committee and another defamation lawsuit against the requestor, in his capacity as the committee's campaign treasurer, for published materials opposing the candidate.

Although corporations generally may not make political contributions or political expenditures, section 253.100 of the Election Code permits a corporation to "make one or more political expenditures to finance the establishment or administration of a general-purpose committee" and includes a list of permissible expenditures that a corporation may make, "in addition to any other expenditure that is considered permissible" under that section. Elec. Code § 253.100(a).¹ Section 253.100 also includes a list of expenditures that a corporation may not make.² Elec. Code § 253.100(d).

An expenditure for legal expenses incurred in defending against defamation lawsuits filed against the committee and its campaign treasurer is not a type of expenditure listed in section 253.100. The issue, therefore, is whether such an expense is an administrative expense that is permissible under section 253.100.

We have stated that expenses tied directly to a political committee's support for or opposition to candidates or measures would not be administrative expenses. [Ethics Advisory Opinion No. 132](#) (1993). Although this standard is often difficult to apply in some circumstances, we have determined that payment of a late fine assessed against the campaign treasurer of a general-purpose committee is an administrative expense because it is not directly related to a committee's support of or opposition to candidates or measures. [Ethics Advisory Opinion No. 216](#) (1994). Similarly, in the question before us, defending against the defamation lawsuits described in this request is an expense that is not directly related to the committee's support or opposition to candidates or measures, but rather is indirectly related to that activity. In our opinion, the expenses at issue are "administrative" and, therefore, a general-purpose political committee may accept contributions from a corporation to defray expenses incurred in defending against the defamation lawsuits described in this request.

This conclusion is specifically limited to the stipulated facts set out herein. It is possible that expenses incurred by a general-purpose committee in defending other lawsuits are not "administrative" for purposes of section 253.100 of the Election Code.

The requestor also asks whether corporate contributions accepted by the political committee to defray expenses incurred in defending against the defamation lawsuits are required to be disclosed on a campaign finance report. Title 15 of the Election Code requires the campaign treasurer of a general-purpose political committee to file the committee's campaign finance reports. Subchapter F, Chapter 254, Elec. Code. A campaign finance report filed by a campaign treasurer of a general-purpose committee must disclose information about administrative expenditures made by a corporation for the committee under section 253.100 of the Election Code. *Id.* § 254.151(9). Such expenditures are to be reported on Schedule C-2 of Form GPAC (or Form MPAC if filing monthly).

SUMMARY

A general-purpose political committee may accept contributions from corporations to defray expenses incurred in defending against the defamation lawsuits described in this request filed against the committee and its campaign treasurer. Such contributions must be disclosed on the committee's campaign finance reports. This conclusion is specifically limited to the stipulated facts set out herein.

¹ A corporation or labor organization may make expenditures under section 253.100 for: (1) office space maintenance and repairs; (2) telephone and Internet services; (3) office equipment; (4) utilities; (5) general office and meeting supplies; (6) salaries for routine clerical, data entry, and administrative assistance necessary for the proper administrative operation of the committee; (7) legal and accounting fees for the committee's compliance with this title; (8) routine administrative expenses incurred in establishing and administering a general-purpose political committee; (9) management and supervision of the committee, including expenses incurred in holding meetings of the committee's governing body to interview candidates and make endorsements relating to the committee's support; (10) the recording of committee decisions; (11) expenses incurred in hosting candidate forums in which all candidates for a particular office in an election are invited to participate on the same terms; or (12) expenses incurred in preparing and delivering committee contributions. Elec. Code § 253.100(a)

² A corporation or labor organization may not make expenditures under section 253.100 for: (1) political consulting to support or oppose a candidate; (2) telephoning or telephone banks to communicate with the public; (3) brochures and direct mail supporting or opposing a candidate; (4) partisan voter registration and get-out-the-vote drives; (5) political fund-raising other than from its stockholders or members, as applicable, or the families of its stockholders or members; (6) voter identification efforts, voter lists, or voter databases that include persons other than its stockholders or members, as applicable, or the families of its stockholders or members; (7) polling designed to support or oppose a candidate other than of its stockholders or members, as applicable, or the families of its stockholders or members; or (8) recruiting candidates. *Id.* §253.100(d).