



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 596

December 18, 2023

ISSUE

Whether expenditures made by a former legislator for general administration of his own campaign account are “direct campaign expenditures” that trigger the Section 253.007 two-year waiting period before engaging in activity that would require registration as a lobbyist. (AOR-692).

SUMMARY

No. Expenditures made by a candidate or officeholder that benefit only his or her own campaign are not “direct campaign expenditures” and therefore do not trigger the Section 253.007 lobby waiting period.

FACTS

The requestor is a former legislator who is not running for re-election. The requestor has used campaign contributions he accepted as an officeholder or candidate for small expenditures related to the maintenance of his campaign account or “residual items” from his past political campaigns. Examples of the expenditures include bank fees, paying for storage of campaign assets until they can be disposed of, and paying for the maintenance of campaign email accounts so the emails are not lost.

The requestor has not used his campaign contributions to make contributions to another candidate or committee, or to make direct campaign expenditures supporting other candidates or measures.

ANALYSIS

Section 253.007 of the Election Code prohibits a person from engaging in activities that require the person to register under Chapter 305 of the Government Code during the two-year period after the date the person knowingly makes or authorizes certain political contributions or makes a “direct campaign expenditure[] from political contributions accepted by the person as a candidate or officeholder.” Tex. Elec. Code § 253.007.

A “direct campaign expenditure” is “a campaign expenditure that does not constitute a campaign

contribution by the person making the expenditure.” *Id.* § 251.001(8). “A campaign expenditure does not constitute a contribution by the person making the expenditure to a candidate or officeholder if the expenditure is made without the prior consent or approval of the candidate or officeholder on whose behalf the expenditure is made.” *Id.*

An expenditure made by a candidate or officeholder to benefit only his or her own campaign is not a contribution, which seems to fit the first part of the definition of direct campaign expenditure. However, the reference to prior consent or approval from the benefitting candidate in second half of the definition evidences a clear legislative intent that a direct campaign expenditure is an expenditure to benefit someone other than the person making the expenditure.

The relevant part of the definition of “direct campaign expenditure” states that an expenditure is not a contribution to a candidate or officeholder if it is made without the prior consent or approval of the candidate who benefits from the expenditure. *Id.* A candidate cannot knowingly make an expenditure for his or her own benefit without his or her own consent or approval. Therefore, by definition, an expenditure made by a candidate to benefit only him or herself cannot be a direct campaign expenditure. Accordingly, an expenditure by a candidate or officeholder that only benefits that candidate or officeholder’s campaign, including expenditures associated with winding up their own account, would not trigger the Section 253.007 waiting period.