

STATE ETHICS ADVISORY COMMISSION

ADVISORY OPINION 1984-3

Re: Whether an office-holder may use contributions to pay for a portion of the purchase or maintenance costs of an automobile used both for personal and political purposes.

This opinion responds to a request (AOR 1984-15) from the Public Servant Standards of Conduct Advisory Committee for a State Ethics Advisory Commission opinion. The request was received by the Commission at its meeting on January 13, 1984, and relates to the following issue:

If an elected official purchases an automobile for both political and personal use, can any portion of the purchase or maintenance costs be paid for out of political funds?

Before September 1, 1983, Chapter 14 of the Election Code ("the Code") did not limit the uses of candidate and office-holder contributions. Effective September 1, 1983, however, Chapter 14 was significantly amended to limit the permissible uses of contributions accepted on or after that date.

Tex. Elec. Code Ann. art. 14.03d (Vernon Supp. 1984) now prohibits a person who accepts a contribution as a candidate or officeholder on or after September 1, 1983, from converting such contribution to personal use. Act of June 17, 1983, ch. 444, § 5, 1983 Tex. Sess. Law Serv. 2584 (Vernon). The statute defines "personal use" as:

a use which primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. The term does not include any payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a holder of public office . . .

The personal use prohibition and penalty set out in art. 14.03d do not apply to an automobile purchased and used only for candidate or officeholder purposes. However, when the automobile is also used for a personal use, the office-holder must be able to differentiate between the political and personal uses and insure that contributions are being expended only for the apportioned political use of the automobile.

The Commission makes no judgment in this Advisory Opinion regarding acceptable methods for making such a differentiation.

SUMMARY

When an office-holder uses an automobile for both personal and political purposes, Chapter 14 of the Election Code does not prohibit the use of contributions to pay the portion of the purchase price and maintenance costs attributable to actual political use.

W. Page Keeton, Chairman
State Ethics Advisory Commission
Adopted on the 24th day of February, 1984.