



Ohio Elections Commission

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Columbus, Ohio 43215
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January 4, 2000

OHIO ELECTIONS COMMISSION

Advisory Opinion 2001ELC-01

SYLLABUS: Upon the filing of a campaign finance report which reflects a previously outstanding obligation as forgiven, the same obligation cannot be reinstated and brought forward as a debt or loan to a subsequent committee in anticipation of payment.

TO: Judge Eileen A. Gallagher

You have requested an advisory opinion on the following issue:

Can a debt or loan, previously owed but forgiven in 1994, be reinstated and brought forward as a debt or loan to the existing committee for the same candidate?

Ohio Revised Code §3517.10 governs the filing of campaign finance reports in the state of Ohio. A campaign committee is required to file reports with the appropriate filing office at defined times based on the activity of the committee. All campaign finance reports are signed and filed under penalty of election falsification, thereby assuring that all information contained therein is accurate as attested. Such reports must contain all information pertaining to the contributions and expenditures made by the campaign committee, including a list of outstanding obligations owed by the campaign committee.

Such obligations, identified as loans or debt, must be acknowledged and shown on the campaign finance report from the time they are incurred, as long as such obligations remain outstanding. At such time as the obligations are paid or forgiven, a notation reflecting this satisfaction is made on the proper form, which is then included with the campaign finance report. The satisfaction must also be reflected on the campaign finance report's cover sheet by showing a zero balance in either the "Outstanding loans owed by committee" or "Outstanding debts owed by committee" line items. The report should also reflect the payment as either a monetary expenditure or as an in-kind expenditure at the same time depending on whether it was paid or forgiven, respectively. Only at such time as the loan or debt

is satisfied should it be reflected in such manner in the campaign finance report. While there have been certain changes to the campaign finance laws in the intervening period, the basic laws applicable to this situation are the same now as they were in 1994, when the loan was originally forgiven.

R.C. §3517.10(A) also allows a campaign committee that has no outstanding expenses or obligations, and contains no balance of contributions, to terminate itself. In pertinent part, the last paragraph of that division states that

(i)f a campaign committee ... has no balance on hand and **no outstanding obligations** and desires to terminate itself, it shall file a statement to that effect, ... **made under penalty of election falsification**, ... after filing a final statement of contributions and a final statement of expenditures... [Emphases added.]

According to your advisory opinion request, you had an active campaign committee in 1994 which had an outstanding obligation owed by the campaign committee. In the post-election campaign finance report, filed in December, 1994, you state that the treasurer indicated that the loan was forgiven and that the committee had no balance on hand at the end of that period. This “zero balance” situation allowed your treasurer to terminate your committee by affirmatively stating, under penalty of elections falsification, that the committee had no outstanding obligations. At that time and based on this statement, the board of elections accepted the campaign finance report and reflected the campaign committee as terminated on the Board’s records, pursuant to the provisions of R.C. §3517.10.

You then indicate that you currently have an open campaign committee, which was established in 1996, and you ask the propriety of reinstating the “forgiven” debt from the prior campaign at this time. Presumably, this is being done now that extra funds are available to “retire” the debt. This Commission hereby determines that the debt is already retired and cannot be reinstated.

In summary, in order to properly terminate your prior campaign committee, a campaign finance report was filed in December, 1994, which contained a statement under penalty of elections falsification that the committee had no outstanding obligations. Relying on this statement, the board of elections accepted your campaign finance report and allowed the committee to be terminated. For purposes of Ohio’s campaign finance laws, your campaign committee was terminated and the debt was retired upon the filing of that campaign finance report. Neither can be reinstated. To allow such activity would be imprudent and restrict the provisions of Ohio’s campaign finance laws as they relate to the inclusion of outstanding obligations on such reports. This cannot be permitted.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that upon the filing of a campaign finance report which reflects a previously outstanding obligation as forgiven, the same obligation cannot be reinstated and brought forward as a debt or loan to a subsequent committee in anticipation of payment.

Sincerely,

A handwritten signature in cursive script that reads "Alphonse P. Cincione".

Alphonse P. Cincione
Chairman