



Ohio Elections Commission  
State Office Tower, 14th Floor  
Columbus, Ohio 43266-0418  
(614) 466-2585

March 19, 1990

ADVISORY OPINION NO. 90-3

- SYLLABUS:
1. The funds of a campaign committee may be used to pay legal expenses incurred by another campaign committee of the same candidate in connection with defending charges against the second committee before the Ohio Elections Commission only when the first committee's balance is transferred to the second committee and the first committee is terminated.
  2. Funds received and payments made for legal fees incurred in defending charges brought before the commission related to seeking nomination or election to public office must be reported by the candidate's campaign committee pursuant to Ohio Revised Code section 3517.10.

TO: James E. Melle, Counsel to the Committee to Elect Donald R. Ford Justice of the Ohio Supreme Court

You have requested an advisory opinion on the following questions:

1. May a campaign committee, which is defending itself against charges brought before the Ohio Elections Commission, use campaign funds of another campaign committee involving the same candidate but a different election, to pay for the legal fees incurred in such defense?
2. May a candidate for judicial office, or someone acting on his behalf, solicit funds for a legal defense fund to pay for legal fees incurred in defending charges brought against a campaign committee before the Ohio Elections Commission.

Regarding expenditures for legal fees, this commission stated in Advisory Opinion No. 87-15 that legal fees incurred to defend charges brought before the commission could be paid from campaign committee funds, because such payment is not for the candidate's personal or business use. Rather, it is connected to activities related to the candidate's campaign.

However, Ohio Revised Code section 3517.081 provides that a candidate may not have more than one campaign committee for the purposes of receiving contributions and making expenditures. Therefore, a candidate who has different committees for different offices may not use one committee to pay the expenses of the other in connection with seeking nomination or election. In two separate opinions, this commission has ruled that a candidate who has different campaign committees in connection with elections for different offices may terminate one committee and transfer the balance to the other without violating R.C. 3517.083. A transfer may be made only if the committee making the transfer is terminated. See, Advisory Opinion Nos. 87-7 and 89-5.

Therefore, it is the opinion of this commission that the funds of a campaign committee may be used to pay legal expenses incurred by a different campaign committee of the same candidate in connection with defending against charges before the commission only when the first committee's balance is transferred to the second committee and the first committee is terminated.

In responding to the second question, it is presumed that the "legal defense fund" is proposed to be separate and distinct from the candidate's campaign committee.

Ohio Revised Code section 3517.01(B)(1) defines "campaign committee" as ". . . a candidate or combination of two or more persons authorized by a candidate under section 3517.081 of the Revised Code to receive contributions and expenditures. In Advisory Opinion No. 87-7, this commission explained the purpose for the single campaign committee as follows: ". . . so that all contributions and expenditures in behalf of a candidacy are organized and disclosed to the public under one committee name." As previously stated, defending against charges brought before this commission is a legitimate use of campaign funds because the payment is in connection with activities related to the candidate's campaign, e.g., filing campaign finance reports.

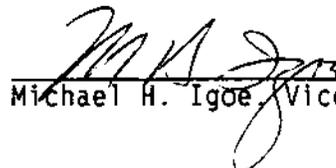
Therefore, in the opinion of this commission, funds received and payments made for legal fees incurred in defending charges brought before the commission related to seeking nomination or election to public office must be reported by the candidate's campaign committee pursuant to Ohio Revised Code section 3517.10. Although a separate account may be established, funds in such an account must be reported as part of the campaign committee's reports.

The commission expresses no opinion regarding whether the Canons of Judicial Conduct have any application to the questions you have asked.

For the reasons stated herein, it is the opinion of the Ohio Elections Commission that:

1. The funds of a campaign committee may be used to pay legal expenses incurred by another campaign committee of the same candidate in connection with defending charges against the second committee before the Ohio Elections Commission only when the first committee's balance is transferred to the second committee and the first committee is terminated.
2. Funds received and payments made for legal fees incurred in defending charges brought before the commission related to seeking nomination or election to public office must be reported by the candidate's campaign committee pursuant to Ohio Revised Code section 3517.10.

APPROVED:

  
Michael H. Igoe, Vice Chairman