



KENTUCKY REGISTRY OF ELECTION FINANCE

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ADVISORY OPINION 2014-001

Any Advisory Opinion rendered by the Registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the Advisory Opinion is required. KRS 121.135(4).

February 5, 2014

Mr. Carl Nett
901 Eastern Parkway
Louisville, KY 40217

In re: Campaign Funds/ Definitions/ Allowable Campaign Expenditures (AO 2014-001)

Dear Mr. Nett:

This Advisory Opinion is sent in response to your January 6, 2014 request regarding the proposed activities of the Campaign Fund of Carl Nett for State Representative, District 35 (Nett Campaign Fund). You serve as both Candidate and Treasurer for the Nett Campaign Fund. Pursuant to KRS 121.135(5)(a), your request was posted for public comment on January 9, 2014. No public comments were received.

Specifically, you ask whether you may personally loan copies of your self-published book, *The Stile of This Confederacy*, to your campaign. Each book loaned to the campaign, you explain, would be valued at the out-of-pocket production cost of the book. You propose to give a copy of your book to each campaign contributor of \$100 or more. For each book given to a contributor, the Nett Campaign Fund would then reimburse your sole proprietorship – Hailstonesouth – for the production cost of the book.

You regard the distribution of your book to campaign supporters as crucial to your election effort, as your book reflects the stated goals of your campaign. You also state the book contains an autobiographical blurb which will help you establish name recognition and reach an audience beyond each book's recipient.

You explain in your request that only the out-of-pocket production cost of each book would constitute a personal loan to the campaign. You would personally pay income and sales tax, as applicable, making the transaction a net personal/ business loss, from which you would receive no private pecuniary benefit.

The short answer to your question is a qualified "yes."

In re: Campaign Funds/ Definitions/ Allowable Campaign Expenditures (AO 2014-001)

KRS 121.175 defines allowable campaign expenditures as including “. . . reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate . . .” and may include:

. . . expenditures for staff salaries, gifts and meals for volunteer campaign workers, food and beverages provided at a campaign rally, advertising, office space, necessary travel, campaign paraphernalia, purchases of advertisements in athletic and scholastic publications, communications with constituents or prospective voters, polling and consulting, printing, graphic arts, or advertising services, postage, office supplies, stationary, newsletters, and equipment which is used primarily for the administration of the campaign.

Expenditures of campaign funds for any purpose made unlawful by any other Kentucky statute or which would bestow a private pecuniary benefit are expressly prohibited. See KRS 121.175(1). In addition, 32 KAR 2:200 §1 (2) specifically allows “. . . (e)xpenditures for items of personal property bearing the name or likeness of the candidate in a conspicuous manner for distribution by a candidate which are distributed for the purpose of advertising that individual’s candidacy. These items include, but are not limited to, hats, shirts, calendars, magnets, holiday greeting cards, and similar items.” As noted in your request, your self-published book - *The Stile of This Confederacy* – prominently bears your name and autobiographical information. Therefore, you may report the production cost value of a certain number of copies of your self-published book as a candidate loan to your campaign. However, to avoid any confusion regarding the source of books loaned to your campaign, any repayment for the production cost of books you have personally loaned to your campaign should be made from the Nett Campaign Fund to you individually instead of directly to your publishing company, Hailstonesouth. Repayment of the loan should be reported as a disbursement to the candidate with a corresponding reduction in the value of the debt owed to you by your campaign. See KREF 006, Election Finance Statement, Schedule 2 (Itemized Disbursements) and Schedule 4 (Debts & Obligations).

To the extent any campaign expenditure is identified as questionable, the candidate bears the burden “. . . to prove that the expenditure was directly and primarily related to [the candidate’s] candidacy.” 32 KAR 2:200 §3. For this reason, the Nett Campaign Fund should maintain copies of records substantiating the production costs of the book as described in your letter in the event the campaign’s repayment of your personal loan is questioned.

Please keep in mind that this Advisory Opinion is based on the specific facts set forth in your written request, does not cover past conduct, and only may be applied to cover the conduct in the transaction you describe. If you have any questions concerning this Advisory Opinion, please do not hesitate to contact the Registry. Thank you.

Very truly yours,



EMILY DENNIS
General Counsel

Cc: Registry Members
Sarah M. Jackson, Executive Director