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ADVISORY OPINION 2015-002

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. See KRS 121.135(4).

January 11, 2016

Hon. Larry Clark, State Representative
5913 Whispering Hill Blvd.
Louisville, KY 40219

**In re: Campaign Funds/ Allowable Campaign Expenditures
(AO 2015-002)**

Dear Representative Clark:

This Advisory Opinion is sent in response to your recent request regarding allowable campaign expenditures. You specifically request the Registry to clarify the extent to which you may use existing funds in your campaign account for constituent communications through and during the 2016 legislative session. You state that you currently intend not to run for re-election in 2016 and will make your final decision by the filing deadline on January 26, 2016. If permitted by Kentucky law, you intend to use funds remaining in your campaign account to pay for services to keep your constituents informed throughout the 2016 legislative session, then to disburse the remaining funds in compliance with the campaign finance law and close the account.

The Registry received your request on December 11, 2015. As required by KRS 121.135(5)(a), your request was posted for public comment on December 15, 2015. No public comments were received.

**In re: Campaign Funds/ Allowable Campaign Expenditures
(AO 2015-002)**

KRS 121.175 defines “allowable campaign expenditures” to mean expenditures including reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate . . . and includes, but is not limited to, 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, stationery, newsletters, and equipment which is used primarily for the campaign. If an expenditure is questioned, the candidate bears the burden to prove that the expenditure was directly and primarily related to the candidate’s candidacy.


The statute specifically permits members of the General Assembly to make allowable campaign expenditures in both election and nonelection years, and to utilize funds in a campaign account to purchase admission tickets for political party functions and caucus campaign committee functions, to purchase items with a value of not in excess of \$100 for donation to a political party or caucus campaign committee for auctions and fundraisers, and to participate in or support other events sponsored by a political party or caucus campaign committee.

In the case of a candidate with funds remaining from a past election, KRS 121.180(10) states that any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further the candidacy of a person shall, in whole or in part, at the election of the candidate, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to a caucus campaign committee, or to the state or county executive committee of the political party of which the candidate is a member except that a candidate may retain the funds to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the Internal Revenue Code.

Under the circumstances described in your request, KRS 121.175 appears to permit the campaign to pay for communications with your constituents during the legislative session. However, the campaign account should not be used for expenses that are legitimate legislative branch expenses, as opposed to campaign expenses. Any funds remaining thereafter should be disbursed in compliance with KRS 121.180(10).

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
John R. Steffen, Executive Director