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ADVISORY OPINION 2024-01

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).

May 28, 2024

VIA EMAIL (CHADAULLKY@GMAIL.COM)

And FIRST CLASS U.S. MAIL

Rep. Chad Aull
2112 Paige Court
Lexington, KY 40502
CHADAULLKY@GMAIL.COM

In re: Request for Advisory Opinion: Candidate Use of Campaign Funds for Travel

Dear Representative Aull:

This Advisory Opinion is sent in response to your May 1, 2024, email requesting an advisory opinion on whether candidates with an active campaign account are allowed to use funds to pay for travel and lodging at conferences, such as a party state of national conference. While this request would seem to describe a hypothetical situation, which would not be appropriate to answer in an advisory opinion under 32 KAR 2:060, §1(2), you and I had further discussed by telephone that you intended to attend a national conference in August where you would meet with donors, among other activities, and wanted to know if you could use the funds in your campaign account for this purpose. Your request was posted on the Kentucky Registry of Election Finance's ("the Registry") website for ten days for public comment, but the Registry received no comments.

Candidate Use of Campaign Funds for Travel (AO 2024-01)

Allowable campaign expenditures are governed by KRS 121.175, which currently states:

No candidate. . . shall permit funds in a campaign account to be expended for any purpose other than for allowable campaign expenditures. "Allowable campaign expenditures" means 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 if reported*, 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 administration of the campaign, or for fees incurred from legal services while defending a matter before the Kentucky Legislative Ethics Commission in which the final adjudication is rendered in favor of the candidate. [Emphasis added.]

As the Registry has long held,¹ candidates may attend such state or national party conventions if the expenses are reasonable and primarily and directly related to their candidacies. See also 32 KAR 2:200, §1(5). Meeting with potential donors would qualify as an expense which is primarily and directly benefitting one's candidacy.

By contrast, campaign funds may not be used to bestow a private pecuniary benefit on a candidate or to purchase tickets to an event which is unrelated to a political campaign or candidacy, or to promote or oppose an individual's candidacy for a leadership position in a governmental, professional, or political organization, or other entity. See KRS 121.175(1). Any candidate who used campaign funds for travel to a national convention must be able to independently verify that his or her attendance at the event provided a direct benefit to the individual member's candidacy.

This Advisory Opinion would end there, except for a pending amendment to KRS 121.175, passed by the General Assembly in the 2024 session. HB 595 added the following language to KRS 121.175, to take effect on July 14, 2024, and thus before your planned travel:

A member of the General Assembly may utilize funds in his or her campaign account to;

. . . Upon approval by the President of the Senate or the Speaker of the House of Representatives, depending on the member's chamber:

¹ See, for example, AO 2016-003 at https://kref.ky.gov/KREF%20Advisory%20Opinions/2016_003_Opinion.pdf.

Candidate Use of Campaign Funds for Travel (AO 2024-01)

1. Attend a conference, meeting, reception, or similar event; or
2. Attend an educational course or seminar that maintains or improves skills employed by the member in carrying out the duties of his or her elective office[.]

Thus, the General Assembly has carved out a travel allowance for itself alone that would seem to allow for your described travel quite separate and apparent from the requirement of expenditures being “directly and primarily” in support of campaigns and that more generally support the incumbent in the performance of his elected duties. If you, as a member of the General Assembly, choose to take advantage of this statute allowing travel with campaign funds for limited non-campaign purposes, you must provide the Registry with sufficient description of the travel on your campaign finance statements to allow its administrators to determine that the funds were used for these purposes. Further, you must provide the Registry with a copy of the approval granted by the President of the Senate or the Speaker of the House. In light of this change in the law and without further promulgation of administrative regulations speaking to the format in which the Registry can receive this approval, the Registry will accept any writing from the President of the Senate or the Speaker of the House that contains the following information:

- The name of the General Assembly member engaging in travel;
- What event that member attended;
- The date range of the travel; and
- A statement that the applicable chamber’s leadership approves of the member’s use of campaign funds for this travel.

Note that the Registry must receive this information by the due date of the applicable campaign finance statement and the travel must have occurred within the dates covered by that statement for the campaign fund not to be in violation of Kentucky campaign finance law.

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

Very truly yours,



LESLIE M. SAUNDERS
General Counsel

Cc: Registry Members
John R. Steffen, Executive Director