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State Ethics Commission of Georgia

ADVISORY OPINION NO. 2007-08 November 29, 2008

REAL OR HYPOTHETICAL SET OF CIRCUMSTANCES

Whether campaign funds may be contributed to a legal defense fund established by a political party

ADVISORY OPINION

The request for an advisory opinion specifically asks whether a candidate or public officer may contribute campaign funds to a legal defense fund established by a political party for the sole purpose of paying legal fees arising from a challenge to the election of the political party's officers.

The Ethics in Government Act (Act) regulates the disposition of campaign contributions by candidates and public officers. O.C.G.A. § 21-5-33(a) & (b). For candidates, the expenditure must be ordinary and necessary in relation to a campaign for office. For public officers, the expenditure must be ordinary and necessary in relation to a campaign for office or a public officer's fulfillment or retention of office. O.C.G.A. § 21-5-33(a). Any contributions received by a candidate or public officer in excess of those necessary to defray expenses under O.C.G.A. § 21-5-33(a) may be disposed of only as set forth in O.C.G.A. § 21-5-33(b).

The request for an advisory opinion does not present any facts that would justify an expenditure of campaign funds to a legal defense fund established by a political party regarding the election of the political party's officers as an ordinary and necessary expense. Such an expenditure does not appear to be related to a campaign for office or to the fulfillment or retention of office sufficient to qualify as a permitted expenditure under OCGA § 21-5-33(a).

Prepared by Tom Plank