GEORGIA GOVERNMENT TRANSPARENCY AND CAMPAIGN FINANCE COMMISSION

ADVISORY OPINION
C.F.C. 2012-01

QUESTION PRESENTED

Whether candidates who have no contributions and no expenditures other than their own payments of their own qualifying fees must file more than the initial and final campaign financial disclosure reports.

ADVISORY OPINION

The Georgia Government Transparency and Campaign Finance Commission (the "Commission") has received this request for advisory opinion from Superior Court Judge David Motes.

The Georgia Government Transparency and Campaign Finance Act (the "Act") provides that

> In the event any candidate covered by this chapter has no opposition in either a primary or a general election and receives no contribution of more than $100.00, such candidate shall only be required to make the initial and final report as required under this chapter.

See O.C.G.A. § 21-5-34(d).

Under Article 1, the Act defines a "contribution" as

> a gift, subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value conveyed or transferred for the purpose of influencing the nomination for election or election of any person for office…[,] other forms of payment made to candidates for office or who hold office when such fees and compensation made can be reasonably construed as a campaign contribution designed to encourage or influence a candidate or public office holding elective office….[, and] transactions wherein a qualifying fee required of the candidate is <u>furnished or paid by anyone other than the candidate</u>.

See O.C.G.A. § 21-5-3(7)(emphasis added).

However, the Act's definition of "expenditure" does not explicitly exempt qualifying fees paid by candidates, implying that when a candidate pays a qualifying fee out of his personal funds, then such a transaction could be an "in-kind contribution." *See* O.C.G.A. §§ 21-5-3(12) & Ga. Comp. R. & Regs. 189-6-.07(1)(defining an "in-kind contribution" as "any item of value other than money received by a candidate or any committee.").

The Commission "always must presume that the General Assembly means what it says and says what it means." *NE Atlanta Bonding Co. v. State*, 308 Ga. App. 573, 577 (2011). Because the Act's definition of "contribution" is clear and unambiguous, the Commission finds that if a candidate uses his or her own personal funds to pay his or her own qualifying fee, then such a payment cannot be considered a contribution or an in-kind contribution under the Act. To read the Act otherwise would render O.C.G.A. § 21-5-34(d) meaningless and mere surplusage, as there could never be an instance where it applies. *See, e.g., Monticello, Ltd. v. City of Atlanta*, 231 Ga. App. 382, 383 (1998). In other words, unopposed candidates who receive no contribution of more than $100.00, yet pay their

own qualifying fee, would never qualify under O.C.G.A. § 21-5-34(d). Because it included O.C.G.A. § 21-5-34(d) in the Act, the General Assembly obviously did not intend such a result.

Accordingly, the Commission finds that unopposed candidates who have no contributions and no expenditures other than payment of their own qualifying fees with their own personal funds are not required to file more than the initial and final campaign financial disclosure reports.

Prepared by Jonathan Hawkins
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