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STATE OF ALABAMA

90-00221

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Honorable M. S. Butler
Sheriff, Montgomery County
Post Office Box 1667
Montgomery, Alabama 36102

Fair Campaign Practices Act -
Elected Officials - Financial
Statements

An elected official must report
annually all contributions and
expenditures made during the
year. Act defines "contributions"
and "expenditures."

Dear Sheriff Butler:

I have your request for an official opinion of this office
relating to the newly approved Fair Campaign Practices Act.
This opinion is issued pursuant to that request.

Question

Is an elected official who has not become a candidate
within the meaning of Section 2(1), Acts of Alabama 88-873 [the
Fair Campaign Practices Act], nor received contributions nor
made expenditures as defined by Section 2(2) or 2(4) thereof
required to report donations made by himself or others toward
extinguishing a personal debt of such elected official for
campaign expenses incurred during a prior election?

Facts and Analysis

Alabama has enacted a comprehensive campaign fund disclosure act known as the Fair Campaign Practices Act. After much effort on the part of this office the Act was cleared by the Justice Department and is now the controlling law in Alabama on disclosure of campaign funds.

The primary thrust of this Act is to ensure that the electors of Alabama are aware of the financial supporters of candidates on our ballots before the elections as opposed to the former system of receiving the information after the election. Therefore, there are requirements and deadlines for reporting of finances by candidates and their committees.

Additionally, §17-22A-8, Code of Alabama requires in subparagraph (2):

All candidates, political committee, and elected state and local officials covered under the provisions of this chapter, shall annually file with the secretary of state or judge of probate, as designated in section 17-22A-9, reports of contributions and expenditures made during that year. The annual reports required under this subsection shall be made on or before January 31 of the succeeding year.
[Emphasis added.]

So as an elected official, even though you are not a candidate, you must report contributions and expenditures as defined by the Act which have been received or made by you during the year.

Both terms, "contribution" and "expenditure," are defined in §17-22A-2. In the context of your request they are defined as:

(2) Contribution.

(a) The following shall be considered contributions:

(1) A gift, subscription, loan, advance, deposit of money or anything of value, a payment, a forgiveness of a loan, or payment of a third party, made for the purpose of influencing the result of an election; [Emphasis added.]

(2) A contract or agreement to make a gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of influencing the result of an election; [Emphasis added.]

. . .

(4) Expenditure.

(a) The following shall be considered expenditures:

(1) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the result of an election; [Emphasis added.]

(2) A contract or agreement to make any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, for the purpose of influencing the result of an election; [Emphasis added.] or

. . .

Both of these definitions contain the language "for the purpose of influencing the result of an election." It is my opinion that an elected official who has received contributions or made expenditures for the purpose of extinguishing a personal debt for campaign expenses incurred during a prior election is not by these actions influencing the result of an election and therefore not required to disclose this activity as an elected official pursuant to §17-22A-8.

Honorable M. S. Butler
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Conclusion

Pursuant to the Alabama Fair Campaign Practices Act an elected state official who is not a candidate for office must file a financial disclosure form only if he or she has accepted contributions or made expenditures as defined by the Act.

Sincerely,

DON SIEGELMAN
Attorney General

By:

A handwritten signature in cursive script, appearing to read "Walter S. Turner".

WALTER S. TURNER
Chief Assistant Attorney General

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