

OFFICE OF THE ATTORNEY GENERAL



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OPINION REVERSED BY JUDGE
THOMAS IN STATE V. HUNT.

Honorable Melvin G. Cooper
Executive Director
State Ethics Commission
Suite 2B, Annex
Montgomery, AL 36104

Legislators - Fair Campaign
Practices Act - Campaign
Contributions - Funds

Pursuant to Code of Alabama
1975, § 17-22A-7, excess
campaign funds may lawfully be
used as personal income by a
candidate.

Dear Mr. Cooper:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

May a candidate for the office of state
senator, who is unopposed for that office,
solicit and accept campaign contributions
and, in turn, divert the monies received to
pay debts of his private business enter-
prises?

FACTS AND ANALYSIS

We first note that the Fair Campaign Practices Act does not prohibit an unopposed candidate from soliciting and accepting campaign contributions. The Act does address the use of excess campaign funds by a candidate via Code of Alabama 1975, § 17-22A-7, which states:

"Amounts received by a principal campaign committee as contributions that are in excess of any amount necessary to defray expenditures of the candidate represented by such committee, may be used by such candidate to defray any ordinary and necessary expenses incurred by him or her in connection with his or her duties as a holder of office, may be contributed by him or her to any organization described in section 170(c) of Title 26 of U.S. Code, may be transferred to another political committee or may be used for any other lawful purpose."

In a prior opinion this office stated that this provision specifically sets forth three ways that excess political contributions may lawfully be used and acknowledges that there may be other lawful purposes. Opinion to Honorable Perry A. Hand, Secretary of State, under date of April 16, 1990. We also stated that one of those lawful purposes may include using excess funds as personal income by a candidate, assuming that the candidate complies with all state and federal tax laws. If the Legislature did not intend for candidates to use campaign funds as personal income that could have been prohibited by specific language in the Act. Accordingly, while we do not condone a candidate's personal use of excess campaign funds, the Legislature has not made such use unlawful.

CONCLUSION

Pursuant to Code of Alabama 1975, § 17-22A-7, excess campaign funds may lawfully be used as personal income by a candidate.

Honorable Melvin G. Cooper
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I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General

By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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