



2005 - 062

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

February 1, 2005

TROY KING
ATTORNEY GENERAL

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable Joseph B. Brogden
Presiding Judge
Circuit Court of Escambia County
1997 Medical Park Drive
Atmore, Alabama 36502

Fair Campaign Practices Act – Campaign
Contributions – Ethics Law

A principal campaign committee, upon terminating and dissolving the committee, may give the funds in its bank account to a church of which the committee's candidate/chairman is a member if the church is a charitable organization as defined in section 17-22A-7 of the Code of Alabama.

Dear Judge Brogden:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Is it permissible under the Fair Campaign Practices Act and the Ethics Law for a principal campaign committee, upon terminating and dissolving the committee, to give the funds in its bank account to a church of which the committee's candidate/chairman is a member?

FACTS AND ANALYSIS

When a principal campaign committee, through its candidate, determines that it will no longer receive contributions or make expenditures, the committee may be terminated or dissolved by notifying the Secretary of State or the

probate judge, as appropriate, of the dissolution of the committee. ALA. CODE § 17-22A-5 (1995). The notice of dissolution must contain a statement of the intended disposition of any remaining funds held by the committee. *Id.*

Section 17-22A-7 of the Fair Campaign Practices Act sets forth the ways in which a principal campaign committee may use campaign contributions held by the committee. This section states as follows:

(a) A candidate, public official, or principal campaign committee as defined in this chapter, may only use campaign contributions, and any proceeds from investing the contributions that are in excess of any amount necessary to defray expenditures of the candidate, public official, or principal campaign committee, for the following purposes:

(1) Necessary and ordinary expenditures of the campaign.

(2) Expenditures that are reasonably related to performing the duties of the office held. For purposes of this section, expenditures that are reasonably related to performing the duties of the office held do not include personal and legislative living expenses, as defined in this chapter.

(3) Donations to the State General Fund, the Education Trust Fund, or equivalent county or municipal funds. *Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U. S. Code.*

(4) Transfers to another political committee as defined in this chapter.

(5) Inaugural or transitional expenses incurred after October 1, 1995.

Honorable Joseph B. Brogden
Page 3

If the church to which the campaign contribution will be made is an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U. S. Code, the principal campaign committee may donate any remaining funds in the committee's bank account to the church. The Fair Campaign Practices Act does not prohibit the donation of the funds to a church, even though the committee's candidate is a member of the church.

Any questions with respect to the State Ethics Law must be presented to the State Ethics Commission.

CONCLUSION

A principal campaign committee, upon terminating and dissolving the committee, may give the funds in its bank account to a church of which the committee's candidate/chairman is a member if the church is a charitable organization as defined in section 17-22A-7 of the Code of Alabama.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

TK/BFS
180361v1/73556