

ARKANSAS ETHICS COMMISSION

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Opinion No. 91-EC-005

June 25, 1991

Mr. Layton Bowman
Bowman & Associates
P. O. Box 726
Mountain Home, AR 72653

Dear Mr. Bowman:

On June 21, 1991, this office received your requests for official opinions pursuant to this Commission's authority under Initiated Act 1 of 1988 and Initiated Act 1 of 1990. I have paraphrased your discussion of your situation into three (3) questions as follows:

1. Under Arkansas campaign and election finance laws, when does a failed candidate's "candidacy" end?
2. As our law defines a "contribution" as a payment, gift, etc. made "for the purpose of influencing the nomination or election" of a candidate, how does this law apply to individual contributions to a failed candidacy since contributions can no longer influence nomination or election?
3. What does Arkansas law provide as to the retirement of campaign debts for an unsuccessful candidate?

Regarding paraphrased question number 1:

As your discussion indicates you already know, Arkansas law does not provide much specificity as to when a campaign season begins nor when one's candidacy for election ends.

There are clues and common-sense approaches to our laws, however, that do provide answers to these questions:

ACA Section 7-6-201(6) provides, for example, that "election means each election held to nominate or elect a candidate to any public office, including school elections. For purposes of this subchapter, a preferential primary, a general primary, a special and a general election shall each constitute a separate election."

ACA Section 7-6-201(5) "Candidate" means any person who has knowingly and willingly taken affirmative action, including solicitation of funds, for the purpose of seeking nomination for or election to any public office.

In the absence of any specific perimeters of the election season in Arkansas, it seems fairly clear that one becomes a "candidate" when he takes affirmative action for the purpose of being nominated or elected to office. Under like reasoning, it would appear that should that person abort his campaign before, or is defeated at the next election--whether it be a preferential primary, general primary, a special election or the general election--his candidacy ends, unless he offers himself for candidacy again. As this Commission's response to your questions number two and three will indicate, the fact that one's candidacy has ended does not mean that he or she is free of all the dictates Arkansas' campaign contribution laws.

As regards paraphrased question number two:

ACA Section 7-6-203(a) It shall be unlawful for any candidate for any public office, or any person acting in the candidate's behalf, to accept campaign contributions in excess of one thousand dollars (\$1,000) per election from any person.

(b) It shall be unlawful for any person to make a contribution to a candidate for public office or to any person acting in the candidate's behalf which, in the aggregate, exceeds one thousand dollars (\$1,000) per election.

The statutes give specific guidance as to the amount of money Mr.

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a candidate, whether failed or successful, may accept from an individual. It is my opinion that the mere fact that the candidacy has ended does not excuse candidates and individual contributors from the restrictions in the law. I specifically interpret the limitation of "one thousand dollars (\$1,000) per election" as a limitation of one thousand dollars from each individual contributor for each election in which the candidate has offered himself or herself for nomination or election. Should the individual contribute more than one thousand dollars (\$1,000) to the candidate, or if the candidate accepts more than that amount from an individual it would be a violation of Arkansas law.

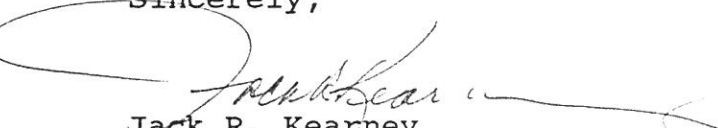
As regards paraphrased question number three:

Arkansas law does allow for the retirement of campaign debts. ACA Section 7-6-203 states:

(f) It shall be unlawful for any candidate for any public office or any person acting in the candidate's behalf or any exploratory committee to solicit or accept campaign contributions more than two (2) years before an election at which the candidate seeks nomination or election. This subsection shall not prohibit the solicitation or acceptance of a contribution for the sole purpose of raising funds to retire a previous campaign debt.

This subsection of Arkansas law specific allows for the solicitation of funds, assuming all other conditions of law are adhered to, for retiring a previous campaign debt. Further, there are no limitations set as to whether the candidate was successful or not.

Sincerely,



Jack R. Kearney
Director/Chief Counsel

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