

# ARKANSAS ETHICS COMMISSION

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Opinion No. 92-EC-021

October 22, 1992

Mr. John Stapp  
Route 1, Box 85  
Rudy, AR 72952

Dear Mr. Stapp:

On September 3, 1992, this office received your request for an official opinion under authority of Initiated Act 1 of 1988 and Initiated Act 1 of 1990.

Your question is based on the following facts:

You are a candidate for public office who is financing his own campaign. You are financing that campaign from your personal funds, which are contained in a joint bank account controlled by yourself and your wife. During your campaign you have purchased services or supplies on many occasions, usually paying by signing a personal check. On more than one such occasion your wife actually signed the check to pay for the services or supplies, rather than yourself. The total amount of the checks signed by her would exceed the limit on the amount an individual may contribute to a candidate's campaign.

Your question, paraphrased, is: In a situation where a candidate and his wife have a joint bank account, such as the one described above, and the wife signs checks drawn on the joint account to pay campaign supplies or services ordered by the candidate

and the amount of the checks which would exceed her contribution limit, has she violated Arkansas law?

Arkansas law provides no exemption for spouses, nor makes any distinction between the spouse and other "persons", in limiting the amount a person may contribute to a candidate for public office. Therefore, we interpret the law to prohibit spouses from contributing more than one thousand dollars (\$1000), per election, to a spouse who is a candidate for public office.

The situation you describe is not clearly a contribution from your spouse. We must decide if the expenditures you describe fit into the prohibited contribution area contemplated by our statutes: the funds that you and your wife share in your joint account apparently could have been spent just as effectively with your signature on the check as hers. We are aware that, had you been conscience of the prohibition against a spouse contributing over one thousand dollars (\$1000) you could and certainly would have simply signed the check yourself. It was only through apparent happenstance, rather than a design to circumvent the law, that she signed checks drawing funds from that account for the benefit of your campaign. As we must make some determination, we determine that the funds were contributed by you. Your wife signed checks on your account as your agent, not as a contributor. Our analysis of the set of facts you describe appears to fit more squarely into the exceptions granted in our statutes to candidates to contribute unlimited amounts of funds to his or her own campaign.

Note that we clearly interpret Arkansas law as prohibiting a person from contributing more than the statutory limit to his or her candidate spouse. Where there are joint accounts used to finance a candidate's campaign, a factual determination must be made as to whether there is intent to circumvent the statutory contribution limits. Our factual determination may be different when the joint account in question is one of several accounts the spouses may control; where it appears the account was opened simply to allow unlimited contributions; or where the joint account is one with a business partner, associate or the like.

Sincerely,



Jack R. Kearney  
Director/Chief Counsel

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