

**ARKANSAS ETHICS COMMISSION
OPINION NO. 97-EC-005(A)**

DATE ISSUED: June 20, 1997

ISSUE PRESENTED:

Whether a candidate may lease an airplane to his campaign from a company in which he has a personal financial interest and use campaign funds as payment? If so, how should the expenditure be reported?

BRIEF RESPONSE:

Yes. The law prohibits personal use of campaign funds, but not campaign use of personal airplanes. A candidate may lease an airplane to his campaign from a company in which he has a financial interest and pay for the lease from campaign funds. However, the lease payment must not exceed the amount necessary to reimburse the leasing business for actual expenditures made by the business. Neither the candidate nor the leasing business may make a profit from the lease agreement. When such a lease occurs, the candidate should report the expenditure by itemizing the amount paid, the date of payment and the name and address of any person, including the candidate, to whom the expenditure was made. Ark. Code Ann. §7-6-207(b)(1)(E)(aSupp. 1995).

FACTS PRESENTED:

A candidate has requested assistance from the Ethics Commission as to whether he may lease his personal airplane to his campaign and use campaign funds as payment provided the airplane is used for campaign purposes and not personal purposes. The candidate is a partner in a business which owns an airplane, available for leasing. The candidate is considering using an airplane owned by the company during his campaign. If he uses it, he is interested in whether the company may bill his campaign for the use.

DISCUSSION:

Ark. Code Ann. §7-6-203(i)(1) prohibits a candidate from taking campaign funds for personal use. Personal use is generally accepted as any use which primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate or holder of public office. When campaign funds are expended for any use of a vehicle or airplane, the purpose for the use will control whether the funds have been used for personal use. Whether a candidate may use contributions to pay for travel-related expenses of any kind, including leasing of an airplane, will depend on the intent with which the expenditure was made.

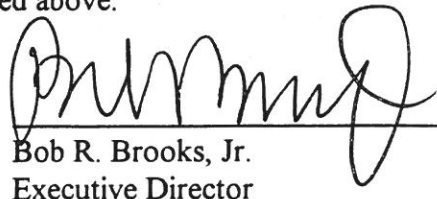
A candidate is permitted to charter an airplane for campaign travel and pay the expenses from campaign funds. In the present scenario, the candidate, rather than chartering an airplane from another private company, desires to lease one from a business in which he has a financial interest. The candidate may use campaign funds to pay for his lease of the airplane as long as the purpose of the use is related to the campaign, and not for any other purpose. Similarly, to the extent that payment for the lease involves any profit for the candidate or any leasing company in which he may have an interest, the candidate should insure that the lease agreement is designed to offset expenses only. Any profit earned by the candidate or his business as a result of the lease will be deemed personal and thereby a personal use of campaign funds which is prohibited by law.

Similarly, if the candidate leases an airplane from a company in which he owns or has an interest, he should insure that no discount from actual costs is involved in the lease. A discounted value could be interpreted as an "in-kind" contribution by the leasing company. The reimbursement or payment should be for actual costs of operating and leasing the airplane - no more, no less. The candidate should also insure that proper documentation exists to show that the leased airplane was used for campaign purposes. If the airplane was used for both personal and campaign purposes, the candidate should prorate the expenditure appropriately, delineating the usage for campaign versus personal matters and the latter should be paid (if necessary) with personal funds only.

In reporting the expenditure, the candidate should follow the dictates of Ark. Code Ann. §7-6-207(b) which requires an itemization of expenditures exceeding \$100. Such itemization should include the amount of the expenditure, the name and address of any person, including the candidate, to whom the expenditure was made, and the date of the expenditure. If a candidate leases the airplane to himself, then this should be reported on the applicable form.

SUMMARY

A candidate may lease his personal airplane to his campaign and pay for the lease agreement with campaign funds provided the airplane is used for campaign purposes and the payment is designed to reflect actual cost of the use of the airplane and results in no profit to the candidate or any leasing company he may own or have an interest in. If the airplane is used for multiple purposes, the candidate should take reasonable steps to insure that campaign funds are used only to pay the percentage of use associated with the campaign. The candidate should itemize the expenditure, pursuant to Ark. Code Ann. §7-6-207(b), as indicated above.



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