

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 98-EC-014

Issued July 17, 1998

ISSUE:

The Arkansas Ethics Commission is issuing this advisory opinion on its own initiative to clarify whether an unopposed candidate who has filed an affidavit with the Secretary of State pursuant to Ark. Code Ann. § 7-6-203(j)(2) is required to continue filing contribution and expenditure ("C&E") reports for the remainder of the election cycle.

BRIEF ANSWER:

Yes. The filing of such an affidavit with the Secretary of State allows an unopposed candidate to dispose of campaign funds earlier than normal but does not relieve the candidate from continuing to file C&E reports for the remainder of the election cycle.

DISCUSSION:

Under Arkansas law, candidates for public office are required to file certain reports of their contributions and expenditures. The reporting requirements vary depending upon the office being sought.

The reporting requirements applicable to candidates for state office (i.e., candidates for office other than school district, township, municipal or county office) are set forth in Ark. Code Ann. § 7-6-207. Candidates for school district, township or municipal office are required to comply with the provisions of Ark. Code Ann. § 7-6-208. Candidates for county office must meet the requirements of Ark. Code Ann. § 7-6-209.

Candidates for public office are required to dispose of surplus campaign funds¹ in accordance with Ark. Code Ann. § 7-6-203(j) which provides, in pertinent part, as follows:

¹ In Ark. Code Ann. § 7-6-201(16), the term "surplus campaign funds" is defined, with certain exceptions, as "any balance of campaign funds over expenses incurred as of the day of the election."

(j)(1) Within thirty (30) days following the end of the month in which the general election is held, a candidate shall turn over surplus campaign funds to either:

(A) The Treasurer of State for the benefit of the General Revenue Fund Account of the State Apportionment Fund;

(B) An organized political party as defined in § 7-1-101(1) or a political party caucus of the Arkansas General Assembly, the Senate, or House of Representatives;

(C) A nonprofit organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or

(D) The contributors to the candidate's campaign.²

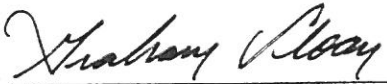
(2) If an unopposed candidate agrees not to solicit further campaign contributions by filing an affidavit with the Secretary of State declaring such agreement, the candidate may dispose of any surplus campaign funds prior to a general election after the time has passed to declare an intent to be a write-in candidate pursuant to § 7-5-205.

The filing of an affidavit with the Secretary of State pursuant to Ark. Code Ann. § 7-6-203(j)(2) permits an unopposed candidate to dispose of surplus campaign funds after the deadline has passed for write-in candidates to declare for office (i.e., sixty (60) days before the general election³) but prior to the general election. The filing of such an affidavit does not, however, relieve the candidate from continuing to file C&E reports for the remainder of the election cycle.

The C&E reports filed after the affidavit would simply reflect no activity, except for the final report, which would indicate which option under § 7-6-203(j) was used to dispose of surplus campaign funds.⁴ The Commission is of the opinion that the final report cannot be filed until after the general election.

This advisory opinion is issued by the Arkansas Ethics Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

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By: 
Graham F. Sloan
Staff Attorney

² Candidates for judicial office must turn surplus funds over to the State Treasurer or return to contributors. See Arkansas Code of Judicial Conduct Canon 5C(2).

³ The deadline for write-in candidates to declare for office in 1998 is Friday, September 4.

⁴ See Ark. Code Ann. § 7-6-207(b)(2).