

ARKANSAS ETHICS COMMISSION

910 West Second Street, Suite 100
Little Rock, Arkansas 72201
(501) 324-9600 Fax (501) 324-9606
Toll Free 1-800-422-7773

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Graham F. Sloan
Staff Attorney

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ADVISORY OPINION NO. 98-EC-020 Issued November 20, 1998

ISSUE:

May a candidate use surplus campaign funds to pay for an inaugural event?

BRIEF ANSWER:

No. A candidate must dispose of surplus campaign funds in accordance with Ark. Code Ann. § 7-6-203(j)(1). It would be permissible, however, for a candidate to use carryover funds to pay for an inaugural event.

DISCUSSION:

The term "surplus campaign funds" is defined in Ark. Code Ann. § 7-6-201(16) to mean:

any balance of campaign funds over expenses incurred as of the day of the election except for:

- (A) Carryover funds; and
- (B) Any funds required to reimburse the candidate for personal funds contributed to the campaign or to repay loans made by financial institutions to the candidate and applied to the campaign.

Surplus campaign funds must be disposed of on or before December 30, 1998, by turning them over to any one of the following:

- (A) The Treasurer of State for 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 the House of Representatives;
- (C) A nonprofit organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or

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

See Ark. Code Ann. § 7-6-203(j)(1)(A)-(D).

Pursuant to Ark. Code Ann. § 7-6-203(j)(3)(D), a candidate is authorized to retain carryover funds for a period of not more than ten (10) years after the last election at which he or she was a candidate. The term "carryover funds" is defined in Ark. Code Ann. § 7-6-201(15) to mean:

the amount of campaign funds retained from the last election by the candidate for future use but not to exceed the annual salary, excluding expense allowances, set by Arkansas law for the office sought.

The use of carryover funds is addressed by Ark. Code Ann. § 7-6-203(j)(3)(A) which provides, in pertinent part, as follows:

[c]arryover funds may be expended by any time for any purpose not prohibited by this chapter and may be used as campaign funds for seeking any public office.

Based upon the foregoing, carryover funds may be expended for any purpose not prohibited by chapter 6 of the title 7 of the Arkansas Code. In that regard, the Commission has promulgated a set of Rules on Campaign Finance & Disclosure in which permitted uses of campaign funds and carryover funds are detailed. Section 223 of those rules provides, in pertinent part, as follows:

candidates and officeholders are free to expend campaign funds on any purpose designed to further their campaign or office as long as it is not for personal income or otherwise prohibited by law.

Section 223 goes on to list certain expenditures which candidates or officeholders may lawfully make. Among the items listed is the following:


[h]iring public halls and music for political meetings, furnishing music, uniforms, banners or fireworks for political clubs or parades or like events and for related advertising of same.

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It is the belief of the Commission that the holding of an inaugural event is permitted by Section 223 of the Commission's Rules on Campaign Finance & Disclosure. Accordingly, a candidate or officeholder may use carryover funds to pay for such an event.

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