

ARKANSAS ETHICS COMMISSION

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MARY LYNN REESE

Opinion No. 91-EC-004-A

August 22, 1991

Honorable Bill McCuen
Secretary of State
256 State Capitol
Little Rock, AR 72201

Dear Secretary McCuen:

On August 1, 1991, this office received your request for an official opinion, under authority of Initiated Act 1 of 1988 (as amended) and Initiated Act 1 of 1990. You requested further clarification in reference to Opinion No. 91-EC-004 to Senator Charlie Cole Chaffin regarding "carryover" funds from a former campaign that are to be used in a new campaign.

After a request from our office for further comment from you on the opinion request, the following expansion of the request was included:

I feel that the "carryover" funds Senator Chaffin referred to should be shown as a contribution. Please see A.C.A. § 7-6-201 (2) (A) which defines a contribution as "...transfers of funds...". Also consider § 7-6-207 (b) (1) CONTENTS OF REPORTS '(B). The name and address of each person, including the candidate, who made a contribution which, in the aggregate, exceeds one hundred dollars (\$100);"

In the past, this office has instructed candidates to show expenditures equal to contributions or show a deficit. Senator Chaffin would not have to itemize the \$6,361.54 if this total was comprised entirely of contributions

received in amounts of \$100 or less.
That is not the case since these
funds were put into the 1991 campaign
in a lump sum.

The specific answer to your initial question is that Senator Chaffin should report the "carryover" on her initial campaign report as a "carryover" or "carryover from past campaign". That is, the Commission's opinion that this "carryover" from Senator Chaffin's previous campaign is not to be considered a contribution from herself, is unchanged.

We are appreciative of the fact that this is an entirely new term brought into the campaign finance disclosure process in Arkansas. We're also aware that the use of this category of "contribution" to the new campaign is somewhat disruptive of the process previously in use at your office. However, we are of the considered opinion that the funds allowed by statute to be carried over from the previous campaign is not a contribution from the candidate. We must, then, adopt some procedure to accommodate what is a finance tool newly recognized in Arkansas law. The only way to accomplish this accommodation is to alter the reporting requirement and the reporting form.

The accommodation could be achieved by providing a space on the Arkansas candidate "Report of Contributions and Expenditures".¹ For Senator Chaffin, and other candidates who may have used the forms which do not presently have this designated space, should be instructed that the "carryover" mentioned in our opinion 91-EC-004 must be specifically denoted on the form provided or by some supplemental means.

Finally, you express concern that Senator Chaffin could, under our Opinion No. 91-EC-004, show a "lump sum" of \$6,361.54 without itemizing from where or whom this money came. On the contrary, it is quite simple to determine the maximum amount of "carryover" to which Senator Chaffin is entitled. Moreover, her final report or the supplemental report after the last campaign should account for every cent that she reports as a "carryover".

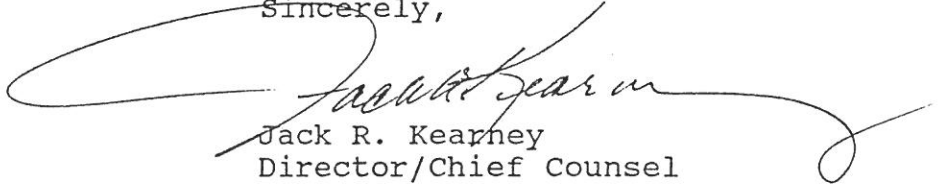
It is, therefore, our opinion that the amount carried over

¹I have taken the liberty of attaching to this opinion a copy of a portion of the Washington State Public Disclosure Commission's law which covers it's surplus campaign funds. That state's law, which is very similar to Arkansas Campaign Finance laws, translates the "carryover" category of finance onto the Candidate Disclosure form as "cash on hand from previous campaign year". A copy of that form is also included.

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from a previous campaign is not required to be reported as a contribution. Those candidates who seek to use "carryover" funds which meet with Arkansas law, must be allowed to so report it provided the funds are specifically so denoted on the Report of Contributions Expenditures or some supplement thereto.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jack R. Kearney". The signature is written in dark ink and is positioned above the typed name and title.

Jack R. Kearney
Director/Chief Counsel

JRK/at