ARKANSAS ETHICS COMMISSION
2020 WEST THIRD, SUITE 300
LITTLE ROCK, AR 72205
(501) 324-9600

JACK R. KEARNEY
Director/Chief Counsel

RICHARD L. MAYS
Commission Chairman

Opinion No. 91-EC-012

December 11, 1991

The Honorable Bobby Tullis
Arkansas State Representative
Box 277
Mineral Springs, AR 71851

Dear Representative Tullis:

On October 16, 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. Your requests concern Arkansas campaign finance laws, specifically those provisions which deal with the retirement of past campaign debts.

Your question number one is:

> "Is the retirement of debt process separate from other campaign law?"

Yes. As I'm certain you are aware, prior to the passage of Initiated Act 1 of 1990, there were no restrictions on campaign fund-raising in Arkansas, in terms of when such fund-raising could be conducted. The law allowed, and the accepted practice appeared to be that campaign funds could remain open indefinitely. Fund-raising could be conducted anytime, with the funds being allocated to past debt or future expenses as individual candidate campaign officials saw fit. The following language in Initiated Act 1 of 1990, however, now restricts such fund-raising.

> ACA § 7-6-203(f) "It shall be unlawful for any candidate for public office, any person acting in the candidate's behalf, or any exploratory committee to solicit or accept campaign contributions more than two (2) years before an election at which the candidate seeks nomination or election."

This subsection, the only statute serving to regulate the time within which to solicit or accept contributions, serves also as the only exception to those restrictions. The remaining language of the subsection states:

> "This subsection shall not prohibit the solicitation or acceptance of a contribution for the sole purpose of raising funds to retire a previous campaign debt."

This language clearly allows a former candidate to conduct a fund-raising effort at any time to raise funds for the sole purpose of retiring a past campaign debt. This would even allow a candidate to conduct dual fund-raising campaigns, one for a pending election as well as one to retire a past debt. In the latter instance, the candidate must ensure that contributions are used for retirement of past debt only. Any money from such a fund can be used for no other political purpose. Specifically, a candidate may not accept contributions under the guise of retiring a past campaign debt, then use such funds in any way to aid a future campaign.

Your question number two is as follows:

> "Do spending limits that apply in other sections of the campaign law also apply during the retirement of debt process?"

Yes. As indicated, the statute which makes an exception for past campaign debt retirement is part of, and affects only the time limitations contained in the remainder of ACA § 7-6-203(f). It concerns itself only with creating an exception to the time limitations for the making or accepting of contributions. The Ethics Commission's interpretation of the statute is that the language does not grant an exception to the dollar amount limits set out in the remainder of Arkansas' campaign finance law. There remains a one thousand dollar ($1000) limit that each individual may contribute to a candidate for each election in which the candidate participates. The amount that the individual may contribute to retire a candidate's past campaign debt must be reduced by the amount of money the individual has already contributed to the candidate during or before his or her campaign for election.

Your question number three is as follows:

> "How should the particular situation be handled where more money is raised to retire a campaign debt than is necessary, but there is

not enough to pay the debt off after the fund-raising expenses are deducted?"

As with any campaign fund, it is anticipated that the legitimate expenses or costs of conducting the fund-raising efforts for retiring past campaign debts should and will be paid from the funds raised. These legitimate administrative expenses may not, of course, include any costs, expenses or debts attributed to any pending or future campaign for elective office. Nor may the funds be converted to the personal use of the candidate, or for any purpose other than the direct payment on past campaign debt, and the reasonable expense of raising and administering the past debt fund. If, after all the past debt and legitimate expenses have been paid, there is money remaining in the debt-retirement fund, the former candidate is expected to return the excess to his or her contributors, to the candidate's political party or to the general fund in compliance with the dictates of ACA § 7-6-203(j). We do not interpret this statute to allow any conversion of funds to personal use of the candidate or for conversion of the excess to any future or pending campaign.

Sincerely,

Jack R. Kearney
Director/Chief Counsel

JRK/at