

ARKANSAS ETHICS COMMISSION

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Opinion #93-EC-003

May 3, 1993

The Honorable William W. Watt
Municipal Judge
Second Division
Municipal Courts Building
600 West Markham
Little Rock, AR 72201

Dear Judge Watt:

On March 1, 1993, this office received your request for an official opinion under authority of Initiated Act 1 of 1988 and Initiated Act 1 of 1990.

Your question, paraphrased, is:

During a 1986 judicial race, I incurred a substantial campaign debt. Because the rules applying to Judges and judiciary candidates, I am restricted as to the time span before and after the election in which to raise campaign funds. As I have been unopposed since the 1986 race, and, therefore, had no need to raise substantial funds, the debt incurred at that time has carried forward. May I conduct fund raisers specifically designed to retire the 1986 campaign debt?

I have attached four (4) opinions hereto, which set forth the statutory rights to raise funds to retire past political campaign debts, as well as some of the restrictions on that type of fund raising. Among the provisions of the law are:

(1) That you may conduct fund raising at any time, provided it is specifically to retire legitimate past campaign debts.

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(2) That funds raised to retire past debts may not be used for other political purposes or to finance a future political effort.

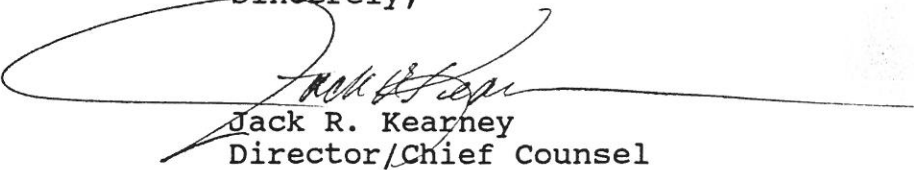
(3) Surplus funds from such an effort may not be converted to personal use, but must be either returned to the contributors, escheated to the state or contributed to one's political party. The candidate may not retain for personal use any money from contributions intended to retire past debts, nor contribute to any other campaigns or committees.

Your question appears to seek this Commission's ruling on whether a person may retire debts that go back several elections-- in your case to 1986 which was some five (5) years before the creation of this Commission.

Our statutes clearly anticipate the need for and provide means of retiring past debts. The statutes provide no guidance as to how far into the past a candidate may go to retire such past debts. This Commission recognizes the need for a candidate to attempt to retire legitimate debts so long as the debts remain outstanding and people are owed money. We are, at the same time, wary of a policy which allows persons unlimited freedom to search their past campaigns for debts so as to launch fund raisers.

The Commission determines that a candidate may conduct political fund raisers at any time to retire past campaign debts. The Commission would require that any past debt which a former candidate seeks to retire through fund raising methods be well documented during and at the close of the run for office. A candidate who has taken funds for personal use, at the end of his campaign or attributed excess funds to a future campaign may not make use of this "past campaign retirement method" to make up for the debts. With those provisions, if a person can persuade a contributor to give money solely for the purpose of retiring a past debt, there are not, and should not be, any rules prohibiting it.

Sincerely,



Jack R. Kearney
Director/Chief Counsel

JRK/at

Enclosures