

Senate Ethics Committee

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ADVISORY OPINION 2020-1

DATE: March 11, 2020

SUBJECT: PAYMENT OF FINES FROM CAMPAIGN FUNDS

SUMMARY:

Fines imposed by the Senate Ethics Committee are “personal expenses which are unrelated to the campaign or the office,” and are not “ordinary expenses incurred in connection with an individual’s duties as a holder of elective office” for purposes of Section 8-13-1348(A). Therefore, a Senator or candidate may not use campaign funds to pay such fines.

QUESTIONS:

May a Senator or candidate use campaign funds to pay fines imposed by the Senate Ethics Committee?

DISCUSSION:

South Carolina Code Section 8-13-1348(A) provides, “No candidate, committee, public official, or political party may use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use. The prohibition of this subsection does not extend to the incidental personal use of campaign materials or equipment nor to an expenditure used to defray any ordinary expenses incurred in connection with an individual’s duties as a holder of elective office.”

In 2000, the House of Representatives Ethics Committee (House Ethics Committee) issued an advisory opinion providing that Representatives and candidates may not use campaign funds to pay late penalty fines incurred as a result of failing to file campaign disclosure forms and statements of economic interests before the established deadline. The House Ethics Committee determined that these types of expenditures are not allowed because they are not related to the campaign or office as required by Section 8-13-1348; but instead, are related more to a Representative’s conduct. Furthermore, the House Ethics Committee determined that to allow a Representative to pay the Representative’s personal fine with campaign funds would be in violation of the spirit of the ethics laws. (See House Ethics Committee Advisory Opinion 2000-1).

To the contrary, in 2009, the Senate Ethics Committee issued a memorandum providing that campaign fines imposed by the Senate Ethics Committee may be paid from campaign funds at the individual Senator or candidate's discretion. (See Senate Ethics Committee Memorandum dated August 13, 2009)

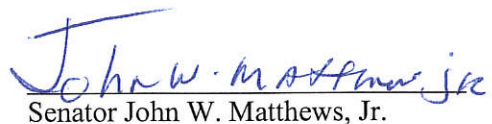
In 2019, the South Carolina State Ethics Commission (State Ethics Commission) issued an advisory opinion providing that using campaign funds to pay fines or penalties imposed by the State Ethics Commission for ethics violations is prohibited. The State Ethics Commission determined that such fines or penalties are not related to the campaign or the office, nor are such expenses ordinary for purposes of Section 8-13-1348. (See South Carolina State Ethics Commission Advisory Opinion 2019-001).

CONCLUSION:

The Senate Ethics Committee agrees with the House Ethics Committee and the State Ethics Commission and reverses the Senate Ethics Committee's prior position on this issue. Fines imposed by the Senate Ethics Committee are "personal expenses which are unrelated to the campaign or the office," and are not "ordinary expenses incurred in connection with an individual's duties as a holder of elective office" for purposes of Section 8-13-1348(A). Therefore, a Senator or candidate may not use campaign funds to pay such fines. This opinion will apply to fines imposed by the Senate Ethics Committee after April 15, 2020.



Senator Sean M. Bennett, Chairman



Senator John W. Matthews, Jr.



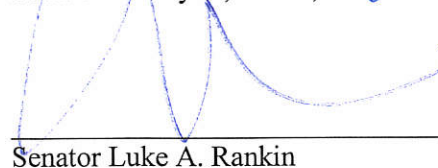
Senator Paul G. Campbell, Jr.



Senator Harvey S., Peeler, Jr.



Senator Brad Hutto



Senator Luke A. Rankin



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Senator Hugh K. Leatherman, Sr.



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