

SEC AO2009-003

July 16, 2008

SUBJECT: CAMPAIGN LOANS

SUMMARY: A candidate's campaign committee may accept from the candidate a promissory note, rather than a lump sum payment, in the amount of the over repayment of the candidate's personal loan to the campaign committee.

QUESTION: Whether it would be permissible for a candidate's campaign committee to accept a promissory note from the candidate in the amount of over repayment of the candidate's personal loan to the campaign committee?

DISCUSSION:

This opinion is rendered in response to a letter dated May 29, 2008 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the State Ethics Act, S.C. Code §2-17-10; 8-13-100 (Supp. 1996). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-1328 provides as follows:

- (A) A candidate for statewide office or the candidate's family member must not be repaid, for a loan made to the candidate, more than twenty-five thousand dollars in the aggregate after the election.
- (B) A candidate for an elective office other than those specified in subsection (A) or a family member of a candidate for an elective office other than those specified in subsection (A) must not be repaid, for a loan made to the candidate, more than ten thousand dollars in the aggregate after the election.

Section 8-13-1314 states the relevant limits and restrictions. It provides in part that:

- (A) Within an election cycle, no candidate or anyone acting on his behalf may

solicit or accept:

- (1) a contribution which exceeds:
 - (a) three thousand five hundred dollars in the case of a candidate for statewide office; or

* * *

(B) The restrictions on contributions in subsections (A)(1) and (A)(2) do not apply to a candidate making a contribution to his own campaign.

As noted in Section 8-13-1314(B) a candidate has no contribution limit when making contributions to his own campaign; however, limits apply to the repayment of loans by the candidate to his campaign. Section 8-13-1328(A) provides that a state-wide candidate may not repay a loan to his campaign in excess of \$25,000 after the election. In this instance the candidate loaned his campaign committee significantly more than \$25,000 and then after the election he had the campaign account make loan payments well in excess of the \$25,000 limit. The candidate realizes he must reimburse the campaign for those excessive payments, but he seeks an alternative to a lump sum payment. The Ethics Reform Act does not prohibit a candidate from providing a promissory note to the candidate's campaign committee setting forth a long-term repayment plan to the committee.

CONCLUSION:

A candidate's campaign committee may accept from the candidate a promissory note, rather than a lump sum payment, in the amount of the over repayment of the candidate's personal loan to the campaign committee.

KEY WORDS:	campaign loans, campaign contributions
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ANNOTATIONS:	8-13-1328, 8-13-1314
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