



MISSOURI ETHICS COMMISSION
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Elizabeth L. Ziegler
Executive Director

October 26, 2018

Re: Advisory Opinion No. 2018.10.CF.005

Dear

At the October 26, 2018 meeting of the Missouri Ethics Commission, your request for an opinion was discussed.

Opinion

Pursuant to § 105.955.16, RSMo, the Missouri Ethics Commission may issue a written opinion regarding any issue on which the Commission can receive a complaint pursuant to §105.957, RSMo. The Commission receives complaints alleging violation of campaign finance provisions of Missouri law. This opinion is issued within the context of Missouri's laws governing such issues, and assumes the facts presented by you in your letter.

The question presented and the Commission's opinion are as follows:

Can a candidate committee pay for attorney's fees incurred by an office holder/candidate regarding an investigation by the federal government as to whether campaign funds have been improperly used and/or expenditures of campaign funds not properly reported to the Missouri Ethics Commission?

Section 130.133.1, RSMo, provides:

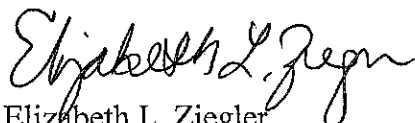
Any reasonable attorney's fees accrued by a person who is the subject of a complaint which are used in defending such person in any matter resulting in an investigation arising from holding or running for public office may be paid out of such person's committee, as defined in section 130.011.

The legislative intent of this statutory provision, as derived from the plain language of the statute, is an express authorization of the use of campaign contributions for legal defense costs when a candidate is the subject of an MEC investigation. Section 105.957, RSMo, requires the Commission to accept complaints and to conduct investigations based upon the factual allegations in those complaints. However, neither "complaint" nor "investigation" is defined in Chapter 105, RSMo, or Chapter 130, RSMo.

The question before the Commission then is whether the provision in § 130.033.1, RSMo, is applicable to legal defense costs incurred as the result of an investigation conducted by the federal government. Section 130.133.1, RSMo, is silent in this regard, but it is unreasonable to conclude that the legislature, after authorizing the use of campaign contributions for legal defense costs in MEC investigations, intended to limit this authorization to just MEC investigations.

Here, because you state that the federal government's investigation of the office holder/candidate is related to the question of "whether campaign funds have been improperly used and/or expenditures of campaign funds not properly reported to the Missouri Ethics Commission" it appears that the federal government's investigation arose out of the "holding or running for public office." Based on these facts, it is the Commission's opinion that the candidate committee may pay reasonable attorney's fees for the defense of this investigation.

Sincerely,



Elizabeth L. Ziegler
Executive Director