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FEDERAL ELECTION COMMISSION
91 MAR 25 1 51 PM '91

REGISTRY OF ELECTION FINANCE
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March 20, 1991

EXECUTIVE DIRECTOR

Peggy Nance Catalano

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Federal Election Commission
Office of General Counsel
999 E. Street, N. W.
Washington, DC 20463

Comment On
ADR 1991-05

91 MAR 26 AM 10:31

Re: TN Democratic Party - Advisory Opinion Request

Dear FEC:

You have forwarded to this office an advisory opinion request from the Tennessee Democratic Party concerning its accepting corporate contributions to use for the purchase of a building as a headquarters facility. A copy of the request was sent to this office for any response that the Registry might wish to make as the state agency with whom the Tennessee Democratic Party has registered PACs, who file state campaign financial disclosure reports with the Registry.

T.C.A. § 2-19-132(a) of Tennessee's Election Laws provides the following:

It shall be unlawful for the executive officers or other representatives of any corporation doing business within this state, to use any of the funds, moneys, or credits of the corporation for the purpose of aiding either in the election or defeat in any primary or final election, of any candidate for office, national, state, county, or municipal, or in any way contributing to the campaign fund of any political party, for any purpose whatever. Violation of this provision can subject a representative of a corporation to a class C

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**misdemeanor under Tennessee's Criminal Laws.
(T.C.A. § 2-19-133).**

While T.C.A. § 2-19-132(a) specifically prohibits corporate contributions to the campaign fund of a political party, it does not address the question of whether corporate contributions can be made to other funds of a political party, such as a building fund, if the monies are totally segregated from the campaign funds of the party. Arguably, even under Tennessee Law such monies would be considered as not being part of a party's campaign fund. I am enclosing a Tennessee State Attorney General's opinion from 1987, in which the Attorney General determined that corporate contributions received by a political party to defray the expenses of a mayor's inauguration are not to be considered contributions to the campaign fund of a political party, as long as those monies are used only for inaugural expenses and did not become political party funds.

It should be noted that while the Tennessee Registry of Election Finance received campaign financial disclosure reports from PACs and candidates and reviews those reports, it does not have jurisdiction to enforce T.C.A. § 2-19-132 of Tennessee's Election Laws.

Please contact me if I may be of further assistance.

Sincerely,


**Peggy Nance Catalano
Executive Director**

Enclosure

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
450 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37219

OCTOBER 12, 1987

OPINION NO. U87-104

Corporate Donations to Defray the Expenses of a Mayor's
Inauguration

QUESTIONS

1. Whether it is a violation of state law for corporate donations to be used to defray the expenses of a Mayor's inauguration in Knoxville, Nashville or Memphis.
2. Whether such gifts are subject to disclosure under the Campaign Financial Disclosure Act.

OPINIONS

1. Such donations do not violate T.C.A. § 2-19-132.
2. Such donations are not subject to disclosure under the Campaign Financial Disclosure Act.

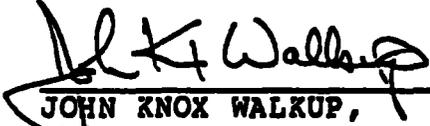
ANALYSIS

This office is unaware of any state statutes dealing specifically with the financing of mayoral inaugurations. When this office opined as to the use of corporate funds for the governor's inauguration, we noted that T.C.A. § 2-19-132 prohibits the use of such funds to aid the election or defeat of candidates for office and to contribute in any way to the campaign fund of any political party for any purposes, Op. Tenn. Atty. Gen. 87-38 (March 11, 1987). Corporate donations to an inaugural committee for inaugural festivities are not in aid of the election or defeat of a candidate. Such donations would not be contributions to the campaign fund of any

political party as long as the corporate funds are used solely for the expenses of the inaugural festivities and do not become part of the funds of a political party. Therefore, it is the opinion of this office that the use of corporate funds to defray the expenses of a mayor's inauguration would not violate T.C.A. § 2-19-132. We express no opinion as to the provisions of any local charters or ordinances.

The Tennessee Supreme Court has recently stated that the Campaign Financial Disclosure Act, T.C.A. § 2-10-101 et seq., "is triggered only by pointed attempts to influence the outcome of particular elections by financial participation in the campaign (i.e., financing of election outcome specific advocacy)." Bemis Pentecostal Church v. State of Tennessee, 731 S.W.2d 897, 907 (Tenn. 1987). Therefore, since no election is involved, it is the opinion of this office that corporate donations to defray the expenses of a mayor's inauguration are not subject to disclosure under the Campaign Financial Disclosure Act.


W. J. MICHAEL CODY,
Attorney General and Reporter


JOHN KNOX WALKUP,
Chief Deputy Attorney General


ANDY D. BENNETT,
Deputy Attorney General

Requested by:

Honorable Joseph R. May
State Representative
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War Memorial Building
Nashville, Tennessee 37219