

*Special Committee on Judicial Election Campaign Intervention
2018 Judicial Elections*

2018-29 Opinion

Judicial candidate [S] filed a complaint against judicial candidate [P] and his committee – the Friends of [P] based on alleged violations of Special Committee Opinion 2018-28.

First, S alleged that P and Friends of P were in violation of the Code of Judicial Conduct and Mississippi election laws based on a fundraising invitation. S provided a fundraising invitation that read:

You are cordially invited to a Debt Retirement Fundraiser
with ____ County ____ Court Judge-Elect
[Candidate name misspelled]
on
Tuesday, January 8, 2019
5:00 to 7:00 PM
...

S complains that this invitation appears to be a personal solicitation of campaign contributions by a candidate and does not contain the required statutory language required under Mississippi law.

P was provided a copy of the complaint and given an opportunity to respond. In his response, P advised the Special Committee that the fundraiser invitation was not a product of his committee. He noted that the required statutory language was omitted and stated that it contained additional errors such as the misspelling of the candidate's name. P maintains that he did not review or approve the invitations before they were mailed and his Committee did not pay for the printing or mailing of the invitations. In fact, P states that he was out-of-state on a family vacation when he learned of the invitations. P affirmatively states that when he learned of the invitations, a member of his committee asked that the third party responsible for the invitations stop distributions. In essence, P and his committee contend that they are not responsible for a third party's attempt to fund raise on his behalf.

The Special Committee finds that the invitation failed to comply with the Code of Judicial Conduct and Mississippi election laws. However, the Special Committee also finds that the invitation was neither authorized nor approved by P or the Friends of P. As a result, the Special Committee finds no violation of the Code of Judicial Conduct and Mississippi election laws by P or the Friends of P.

Second, S complains that the Friends of P is in violation of Canon 5(C)(2) and Miss. Code Ann. Section 23-15-821(2)(h) and (j) by soliciting campaign contributions to pay all or a portion of the sanction in Opinion 2018-28 and in repaying campaign debt.

Canon 5(C)(2) provides that “[a] candidate shall not personally solicit or accept campaign contributions A candidate may . . . establish committees of responsible persons to conduct campaigns for the candidate Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign” Based on P’s response, the Special Committee finds no evidence that the judicial candidate personally solicited campaign contributions and finds no violation fo Canon 5(C)(2) by P or the Friends of P.

Section 23-15-821(2)(h) and (j) provides: “The following personal use expenditures are specifically prohibited under this section: . . . (h) Nondocumented loans of any type, including loans to candidates; . . . (j) Payment of any fines, fees or penalties assessed pursuant to Mississippi law.”

As to subsection (j), the Special Committee does not interpret Opinion 2018-28 as levying any fine, fee or penalty. In Opinion 2018-28, the Special Committee instructed the Friends of P to reimburse a campaign contribution. The Special Committee finds no violation of Miss. Code Ann. Section 23-15-821(2)(j).

As to subsection (h), the campaign finance filing of the Friends of P reported a contribution from “P” on 11-7-18 in the amount of \$4,200, and a contribution on 11/15/18 in the amount of \$7,557.90. Also, on November 29, 2018, the Friends of P filed a document with the Secretary of State entitled “Authorized Judicial Political Committee Report of Loans or Extension of Credit” that identified a loan by P to the Friends of P on November 7, 2018 in the amount of \$4,200, which was signed on November 7, 2018. A similar document was also filed on November 29, 2018 that identified a loan by P to the Friends of P on November 15, 2018 in the amount of \$7,557.90 which was signed on November 15, 2018.

Canon 5(C)(4) provides:

A candidate and the candidate’s committee shall timely comply with all provisions of law requiring the disclosure and reporting of contributions, loans and extensions of credit.

Commentary

Section 5C(4) of the ABA Model Code of Judicial Conduct which makes special provision for reporting campaign contributions is replaced by the

foregoing Section 5C(4) which requires compliance with all provisions of law. See Miss. Code Ann. §§ 23-15-805 and 23-15-1023 (2000 Supp.)

...

Section 23-15-1023 provides:

Judicial candidates shall disclose the identity of any individual or entity from which the candidate or the candidate's committee receives a loan or other extension of credit for use in his campaign and any cosigners for a loan or extension of credit. The candidate or the candidate's committee shall disclose how the loan or other extension of credit was used, and how and when the loan or other extension of credit is to be repaid and the method of repayment. The candidate or the candidate's committee shall disclose all loan documents related to such loans or extensions of credit.

Based on the information available to the Special Committee, it does not appear that the Friends of P timely reported the loans under Miss. Code Ann. §23-15-807. In addition, P and the Friends of P provided “bare bones” information about the loans and no documentation. Section 23-15-1023 contemplates that loan documentation would be prepared and signed to document the loan and more detail would be provided to explain how the loan was used and how and when it would be repaid with the method of repayment.

Third, S complains how does anyone ensure the reimbursement occurs and that is occurs properly? In response, the Special Committee has reported this matter to the Commission on Judicial Performance.

This opinion is limited to the scope and authority of the Special Committee under the Mississippi Code of Judicial Conduct.

Any questions should be in writing and directed to:

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