

PHILADELPHIA BOARD OF ETHICS

Advisory Opinion 2006-002: The Status of the City's Campaign Finance Law

On December 13, 2006, the Honorable Allan L. Tereshko issued a decision in the lawsuit captioned Michael A. Nutter vs. John Dougherty, et al., Philadelphia Court of Common Pleas, April Term, 2006, No. 1516. The Court's Order renders a decision on the counterclaim raised by defendant Dougherty and intervening defendant Fattah, in which they sought a declaratory judgment that the City's Campaign Finance Law (Chapter 20-1000 in the Philadelphia Code), was invalid and unconstitutional because it is preempted by State law.

In his ruling, Judge Tereshko entered a declaratory judgment in favor of defendants Dougherty and Fattah and against plaintiff Michael Nutter and intervenor, City of Philadelphia. In so doing, the Judge found that the City's Campaign Finance Law is unconstitutional, void and therefore unenforceable because it is preempted by State law.¹

On December 26, 2006, the City filed an appeal of Judge Tereshko's decision with the Pennsylvania Commonwealth Court. The City's appeal automatically stays Judge Tereshko's ruling, pursuant to Rule 1736(b) of the Pennsylvania Rules of Appellate Procedure.

Therefore, as of December 26, 2006, the City's Campaign Finance Law remains in full force and effect. The Ethics Board will continue to enforce that law, including by rendering advisory opinions, approving

¹ A prior ruling by a different Common Pleas Court Judge found that the City's campaign finance law was not preempted by State law. On September 27, 2006, the Honorable Gary S. Glazer issued a decision in the lawsuit captioned Allan Schimmel vs. John Dougherty, et al., Philadelphia Court of Common Pleas, April Term, 2006, No. 1233, in which he found that there was no intent by the State legislature to preempt the City's campaign finance law. Accordingly, he dismissed a claim that the City's campaign finance law is unconstitutional.

regulations and developing systems to monitor the political campaign finance reports filed by candidates for City elective offices to determine whether they are complying with the requirements of the Law, pursuant to the Board's jurisdiction.

Questions concerning Philadelphia's regulations on political contributions and expenditures should be directed to the Ethics Board's interim executive director, J. Shane Creamer, Jr., Esq., who can be reached at 215 686-9916.

By the Board²:

Richard Negrin, Esq., Vice-Chair
Pauline Abernathy, Member
Stella M. Tsai, Esq., Member

Issued December 26, 2006³

² Richard Glazer, Esq. and Rev. Dr. Alyn E. Waller participated in the discussions throughout the preparation of Advisory Opinion 2006-002, but were not present during the Board's vote to approve it.

³ The Board conditionally approved this Advisory Opinion at its December 18, 2006 meeting, subject to an appeal by the City from the December 13, 2006 ruling, which subsequently occurred on December 26, 2006.