



CITY OF PHILADELPHIA

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**Evan Meyer**  
**General Counsel**

**Philadelphia Board of Ethics  
Advice of Counsel GC-2011-513**

December 8, 2011

*Via email and U.S. mail*

Richard W. Hayden  
Counsel to Nutter for Mayor  
Saul Ewing LLP  
Centre Square West  
1500 Market Street, 38th Floor  
Philadelphia, PA 19102-2186  
rhayden@saul.com

**Re: Post-Candidacy Contributions and Expenditures**

Dear Mr. Hayden:

You have requested public advice on two questions based on facts you have provided, as stated in your December 2, 2011 letter to me:

**Facts** – An Inaugural celebration event to be held on the evening of January 2, 2012, requires the expenditure of funds to cover the costs of facility rental, staging, entertainment, and food expenses. An Inaugural Committee is required to raise non-public funds to meet these obligations. Further, these funds will be solicited and received during December 2011.

### **Questions**

1. Does Philadelphia's campaign finance law (Chapter 20-1000 of the Philadelphia Code) permit the solicitation and receipt of inaugural related contributions from individuals, political action committees, sole proprietorships, and partnerships that have contributed to the Mayor's re-election campaign during this calendar year? If so, what are the maximum inaugural related contributions that can be made by each class of legally qualified contributors?
2. Are we required to use the Nutter for Mayor Committee as the sole recipient of inauguration-related contributions?

An ethics advisory opinion is necessarily limited to the facts presented. We do not conduct an independent inquiry into the facts and my advice is predicated on the facts you have provided. Further, we can only issue advice as to future conduct. Accordingly, this Advice does not address anything that may have occurred in the past. You are advised that, although previous opinions of this office are guidance to how this office will likely interpret the same provision in the future, previous opinions do not govern the application of the law to different facts. Ethics opinions are particularly fact-specific, and any official or employee wishing to be assured that his or her conduct falls within the permissible scope of the ethics laws should seek and rely only on an opinion issued as to his or her specific situation, prior to acting. In that regard, to the extent that this opinion states general principles, and there are particular fact situations that you may be concerned about, you are encouraged to contact us for specific advice on the application of the ethics laws to those particular facts.

### **The City's Campaign Finance Law: Code Chapter 20-1000 and Regulation No. 1**

Funds raised by a former candidate to pay for inauguration expenses are post-candidacy contributions that are subject to the Philadelphia Code's contribution limits. *See* Code § 20-1001(14); Regulation No. 1, Paragraph 1.1(q).

A former candidate who prevails in the general election may accept post-candidacy contributions between the general election and the end of that calendar year

and in each subsequent calendar year that follows the year of the election. *See* Code §§ 20-1002(4), (5); Regulation No. 1, Paragraphs 1.2(c), 1.3(c).<sup>1</sup>

An individual may make post-candidacy contributions of up to \$2,600 per calendar year. *See* Code § 20-1002(4); Regulation No. 1, Paragraph 1.2(c). An individual may make post-candidacy contributions in the year of the election even if that individual previously made the maximum allowable contribution to the candidate that year prior to the general election. *Id.*

A political committee, partnership, sole-proprietorship, or other form of business organization may make post-candidacy contributions of up to \$10,600 per calendar year. *See* Code § 20-1002(5); Regulation No. 1, Paragraph 1.3(c).<sup>2</sup> A political committee, partnership, sole-proprietorship, or other form of business organization may make post-candidacy contributions in the year of the election even if that individual previously made the maximum allowable contribution to the candidate that year prior to the general election. *Id.*

All post-candidacy contributions raised by a former candidate must be deposited into the checking account of the former candidate's authorized candidate political committee. *See* Code § 20-1003(1); Regulation No. 1, Paragraph 1.29. Likewise, any expenditures for inauguration (or other post-candidacy expenditures) must be made out of the checking account of the former candidate's authorized candidate political committee. *Id.*

## **Conclusions**

Based on the facts that you have provided, you are advised as follows:

1. From now through December 31, 2011, Mayor Nutter may accept post-candidacy contributions of up to \$2,600 from individuals and \$10,600 from political committees,

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<sup>1</sup> The Code is not clear as to whether the post-candidacy period begins the day after the general election or upon certification of the election by the City Commissioners. Because the City Commissioners certified the 2011 general election on November 28, 2011, the issue is moot as regards your request for advice and I therefore do not address it in this opinion.

<sup>2</sup> State law prohibits certain types of business organization from making political contributions. For guidance on the applicable state law, you should contact the Bureau of Commissions, Elections and Legislation of the Pennsylvania Department of State.

partnerships, sole-proprietorships, or other forms of business organization even if such donors previously gave maximum contributions to the Nutter campaign in 2011 prior to the general election.

2. In each calendar year following 2011, Mayor Nutter may accept post-candidacy contributions of up to \$2,600 from individuals and \$10,600 from political committees, partnerships, sole-proprietorships, or other forms of business organization.<sup>3</sup>

3. All post-candidacy contributions to the Mayor must be deposited into the checking account of the Nutter for Mayor political committee. Any expenditures for inauguration (or other post-candidacy expenditures) must be made out of the checking account of the Nutter for Mayor political committee.

If you have any additional facts to provide, we will be happy to consider if they change any of the conclusions in this opinion. Since you have requested public advice from the Board of Ethics, we will make this letter public as required by Code Section 20-606(1)(d)(iii).

Sincerely yours,

Evan Meyer  
General Counsel

cc: Richard Glazer, Esq., Chair  
J. Shane Creamer, Jr., Esq., Executive Director

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<sup>3</sup> It should be noted that Section 20-1002(11) of the Campaign Finance Law requires the Finance Director to adjust the contribution limitations on January 1, 2008 and on January 1 of every four years thereafter (2012, 2016, 2020, etc.). Accordingly, the limits will increase as of January 1, 2012. However, as of this date, we have not been informed whether the Finance Director has yet certified the amount of the adjustments.