



CITY OF PHILADELPHIA

BOARD OF ETHICS  
PACKARD BUILDING  
1441 Sansom Street  
2nd Floor  
Philadelphia, PA 19102-3026  
(215) 686 – 9450  
FAX 686 – 9453

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

## **Philadelphia Board of Ethics Nonpublic Advice of Counsel GC-2011-514**

January 23, 2012

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

A person connected with a candidate committee requested nonpublic advice on two questions based on facts provided:

1. Does Philadelphia's campaign finance law permit the solicitation and receipt of debt retirement, transition, and inaugural related contributions from individuals, political action committees, sole proprietorships, and partnerships that have contributed to [the candidate's] 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 candidate committee as the sole recipient of debt retirement, transition, and inaugural related contributions?

An ethics advisory opinion is necessarily limited to the facts presented. We do not conduct an independent inquiry into the facts and the advice is predicated on the facts provided to us by the requestor. Further, we can only issue advice as to future conduct. Accordingly, this Advice does not address anything that may have occurred in the past.

FOR PUBLIC RELEASE

The requestor was 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, the requestor was 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-

---

<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 (Board of Elections). Because the 2011 general election results were certified on November 28, 2011, and it is our understanding that the candidate had not yet accepted any post-election contributions, the issue is moot as regards this request for advice and therefore it is not addressed in this opinion.

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

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 debt retirement, transition, or inauguration expenses (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 were provided to us, the requestor was advised as follows:

1. From now<sup>3</sup> through December 31, 2011, the political committee 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 even if such donors previously gave maximum contributions to the campaign in 2011 prior to the general election.
2. In each calendar year following 2011, the political committee 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>4</sup>
3. All post-candidacy contributions to the candidate must be deposited into the checking account of the political committee. Any expenditures for debt retirement, transition, and inaugural related (or other post-candidacy expenditures) must be made out of the checking account of the political committee.

---

<sup>3</sup> [Editor's Note: The original letter was sent in December 2011.]

<sup>4</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.). The requestor was advised that the limits would likely increase as of January 1, 2012. However, as of the issuance of the original Advice, we had not been informed whether the Finance Director has yet certified the amount of the adjustments. [Editor's Note: Subsequently, we were informed that the contribution limits had been adjusted to \$2,900 and \$11,500, as was announced at the January 18, 2012 meeting of the Board of Ethics.]

Nonpublic Advice of Counsel GC-2011-514

January 23, 2012

Page 4 of 4

The requestor was advised that if she has any additional facts to provide, we will be happy to consider if they change any of the conclusions in this Advice. Since the requestor requested nonpublic advice from the Board of Ethics, we will not make the original letter public, but we will be required to make public this revised version, edited to conceal her identity, as required by Code Section 20-606(1)(d)(iii).

Evan Meyer  
General Counsel

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