



# STATE OF ALABAMA ETHICS COMMISSION



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April 6, 2005

## ADVISORY OPINION NO. 2005-14

Peck Fox, Esq.  
Treasurer  
Principal Campaign Committee  
RSA Tower, Suite 1650  
Montgomery, Alabama 36104

Conflict Of Interest/Candidate/Elected  
Official Accepting Cash Prize From Charity  
Event

A candidate/elected official may accept a cash prize given through a random drawing at a charity event; provided, that all individuals attending the function have the same opportunity to win; and, that nothing is required of the candidate/elected official to be eligible other than his or her attendance at the event.

However, as there are campaign finance issues involved, it is suggested that the requestor of this opinion contact the Attorney General's Office for an opinion relative to the applicability of *The Fair Campaign Practices Act*/general election laws in the state of Alabama.

Dear Mr. Fox:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

### **QUESTIONS PRESENTED**

- 1) May a candidate/elected official, who attends a charity event, and is selected through a random drawing to win a cash prize, keep that cash prize?
- 2) If attendance at the charity event is paid for with campaign monies, should the cash prize be considered a campaign contribution, and placed in the candidate's/elected official's campaign account, or may the candidate/elected official reimburse the campaign account for the amount of the attendance fee?

### **FACTS AND ANALYSIS**

The facts as have been presented to this Commission are as follows:

Peck Fox represents the campaign of an elected official in Alabama, of whose principal campaign committee he also serves as treasurer.

A candidate/elected official and his wife attended a charity event. At this event, the names of all attendees were placed in contention for a random drawing of a series of cash prizes. At the conclusion of the evening's drawings, the candidate/elected official and his wife won one of the grand prizes. Under these circumstances, should the proceeds of the cash award be retained by the candidate/elected official or considered as a contribution and placed in the campaign account? Would it be a determining factor if the contribution to the charity event was made by the campaign and, if so, could the candidate/elected official reimburse the campaign for that contribution?

Pending an opinion, the proceeds of the drawing are being held in trust awaiting a determination of the appropriate recipients for distribution.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(24) defines a public official as:

“(24) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2.”

Section 36-25-1(8) defines a conflict of interest as:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

Section 36-25-5(a) states:

"(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-6 states:

"Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use."

The Ethics Commission has, on several occasions, addressed the issue of door prizes. The Commission has consistently held that a public official/public employee may accept a door prize; provided, that all that is required for his or her eligibility is his or her attendance, and that all attendees are equally eligible for the door prize.

The determining factor is whether or not official action is required on the part of the public official/public employee for him or her to be eligible for the door prize.

Provided there are no other requirements other than attendance and registration, it would not violate the Alabama Ethics Law for the candidate/elected official to receive the cash prize in the charity drawing.

As to the reimbursing issue, as it is outside the purview of the Ethics Law, it will not be addressed by this opinion.

In addition, as election laws and campaign finance matters may be involved, it is strongly suggested that the requestor of this opinion contact the Attorney General's Office for its guidance as to the applicability of *The Fair Campaign Practices Act*/general election laws of the state of Alabama.

Based on the facts as provided and the above law, a candidate/elected official may accept a cash prize given through a random drawing at a charity event; provided, that all individuals attending the function have the same opportunity to win; and, that nothing is required of the candidate/elected official to be eligible other than his or her attendance at the event.

However, as there are campaign finance issues involved, it is suggested that the requestor of this opinion contact the Attorney General's Office for an opinion relative to the applicability of *The Fair Campaign Practices Act*/general election laws in the state of Alabama.


#### CONCLUSION

A candidate/elected official may accept a cash prize given through a random drawing at a charity event; provided, that all individuals attending the function have the same opportunity to win; and, that nothing is required of the candidate/elected official to be eligible other than his or her attendance at the event.

However, as there are campaign finance issues involved, it is suggested that the requestor of this opinion contact the Attorney General's Office for an opinion relative to the applicability of *The Fair Campaign Practices Act*/general election laws in the state of Alabama.

#### AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on April 6, 2005.

  
Raymond L. Bell, Jr., Esq.  
Chair  
Alabama Ethics Commission