



STATE OF ALABAMA ETHICS COMMISSION



MAILING ADDRESS
P.O. BOX 4840
MONTGOMERY, AL
36103-4840

STREET ADDRESS
RSA UNION
100 NORTH UNION STREET
SUITE 104
MONTGOMERY, AL 36104

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Executive Director

TELEPHONE (334) 242-2997
FAX (334) 242-0248
WEB SITE: www.ethics.alabama.gov

February 2, 2022

ADVISORY OPINION NO. 2022-02

Justin "Andrew" Sorrell
State Representative, District 3
11 South Union street
Montgomery, Alabama 36130

Fair Campaign Practices Act (FCPA) /
Principal Campaign Committee (PCC) /
Contributions / Transfer of Debt

The Fair Campaign Practices Act prohibits a candidate's Principal Campaign Committee from transferring debt to a Principal Campaign Committee on behalf of the same candidate running for a different office unless the candidate dissolves the Principal Campaign Committee that holds the debt.

A Principal Campaign Committee may dissolve and transfer its liabilities to another Principal Campaign Committee formed by the candidate, and that committee could satisfy the liabilities assumed.

Dear Rep. Sorrell:

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.

FACTS

Rep. Sorrell has a Principal Campaign Committee (PCC) for his previous campaign for his current position as the State Representative for House District 3. Rep. Sorrell's House PCC is currently indebted to Rep. Sorrell in the amount of \$64,550. Rep. Sorrell has decided to run for

the office of State Auditor and wishes to close his House PCC and transfer its debt to his Auditor PCC.

QUESTION PRESENTED

Does the Fair Campaign Practices Act (FCPA) prohibit a Principal Campaign Committee for a candidate from transferring its debt to another Principal Campaign Committee on behalf of the same candidate running for a different office?

ANALYSIS

The FCPA prohibits a candidate's PCC from transferring debt to a PCC on behalf of the same candidate running for a different office unless the candidate dissolves the PCC that holds the debt. A PCC may only receive contributions in the twelve months before an election or for a period of 120 days after an election in which the person was a candidate.¹

For candidates who are either (1) prohibited by law from seeking the same office they hold (such as public officials who have term limits) or (2) for those who seek to run for an office that is different from the one they hold (e.g. a legislator who wants to run for Governor), they occupy the same position that anybody running for office for the first time occupies. They must set up a new PCC designated for the office they seek. They may not contribute to their existing PCC if they can no longer be a "candidate" for that office or they are seeking a different elected position.²

However, "A principal campaign committee may dissolve and transfer its liabilities to

¹ (b) Notwithstanding any other provision of law, including, but not limited to, Section 13A-10-61, a candidate, public official, or principal campaign committee may only accept, solicit, or receive contributions:

(1) To influence the outcome of an election.

(2) For a period of 12 months before an election in which the person intends to be a candidate. Provided, however, candidates for legislative and statewide office and their principal campaign committees may not accept, solicit, or receive contributions during the period when the Legislature is convened in session. For purposes of this section, the Legislature is convened in session at any time from the opening day of the special or regular session and continued through the day of adjournment sine die for that session. However, this subdivision shall not apply within 120 days of any primary, runoff, or general election, and shall not apply to the candidates or their principal campaign committees participating in any special election as called by the Governor. This subdivision shall not apply to a loan from a candidate to his or her own principal campaign committee.

(3) For a period of 120 days after the election in which the person was a candidate, but only to the extent of any campaign debt of the candidate or principal campaign committee of the candidate as indicated on the campaign financial disclosure form or to the extent of reaching the threshold that is required for qualification as a candidate for the office which he or she currently holds, or both.

(4) For the purpose of paying all expenses associated with an election challenge including, but not limited to, quo warranto challenges. Ala. Code § 17-5-7

² Ethics Advisory Opinion No. 2017-05.

another principal campaign committee formed by the candidate, and that committee could satisfy the liabilities assumed.”³

Here, Rep. Sorrell is running for State Auditor rather than for re-election to House District 3. Therefore, Rep. Sorrell is no longer a candidate for House District 3, and his House PCC may not receive any further contributions—including any contributions from his Auditor PCC. If Rep. Sorrell’s House PCC were to transfer its debt to the Auditor PCC without dissolving or receive payments for the debt from the Auditor PCC, these transfers would be considered contributions to the House PCC. Therefore, Rep. Sorrell must dissolve his House PCC to be able to transfer its liabilities to his Auditor PCC.

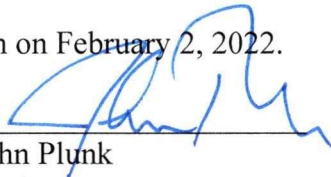
CONCLUSION

The Fair Campaign Practices Act prohibits a candidate’s Principal Campaign Committee from transferring debt to a Principal Campaign Committee on behalf of the same candidate running for a different office unless the candidate dissolves the Principal Campaign Committee that holds the debt.

A Principal Campaign Committee may dissolve and transfer its liabilities to another Principal Campaign Committee formed by the candidate, and that committee could satisfy the liabilities assumed.

AUTHORITY

By 5/0 vote of the Alabama Ethics Commission on February 2, 2022.



John Plunk
Chair
Alabama Ethics Commission

³ Attorney General Advisory Opinion No. 99-00115.