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5000 THURMOND MALL, SUITE 250
COLUMBIA, S.C. 29201

HERBERT R. HAYDEN, JR.
EXECUTIVE DIRECTOR

SEC AO2014-001

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SUBJECT: CANDIDATE'S USE OF PERSONAL VEHICLE

SUMMARY: The Ethics Reform Act does not require a candidate to accept mileage reimbursement for the use of his personal vehicle to attend campaign events. Related campaign travel expenses, beyond mileage, paid for by the candidate are in-kind contributions.

QUESTION: The State Ethics Commission has requested an Advisory Opinion to provide guidance on the disclosure of the use of a candidate's personal vehicle while campaigning.

DISCUSSION: The State Ethics Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act no. 248 of 1991; Section 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

A complaint was filed against a candidate who traveled out of state in his personal vehicle for a fund raising event in his honor. The candidate paid his own expenses and did not claim any reimbursement for the mileage. Nor did the candidate disclose the cost of the travel as an in-kind contribution from him to his campaign.

Section 8-13-1300(7) defines "contribution" to include "...anything of value made to a candidate or committee to influence an election..." to include an in-kind contribu-

tion. Obviously, if a candidate makes a monetary contribution to his campaign it is a disclosable contribution. Likewise, if a candidate incurs an expense and receives reimbursement, it is a disclosable expenditure, but what of the situation where the candidate incurs an expense and does not ask for reimbursement. Is the campaign required to consider the expense an in-kind contribution and if so, to what amount.

A strict rule would require a candidate, who drives his personal vehicle five miles across town to attend a campaign event, to maintain a mileage log, make the proper calculation based on the IRS's mileage reimbursement rate and disclose that amount on his campaign disclosure report. A more permissive interpretation requires a complete review of the definition of "contribution". "Contribution" does not include "volunteer personal services on behalf of a candidate or committee for which the volunteer...receives no compensation..."; therefore, if a volunteer can provide services which may also involve expenses for which no reimbursement is made, the candidate should be able to do likewise.

When a candidate seeks travel reimbursement from his campaign account, then the reimbursement must be based on the IRS mileage reimbursement rate. The reimbursement is an expenditure of the campaign and must be disclosed. A candidate may choose not to accept reimbursement for mileage; however any additional travel expenses paid for by the candidate are in-kind contributions to the campaign and the in-kind contributions must be disclosed.

CONCLUSION: The Ethics Reform Act requires a candidate to disclose all contributions and expenditures related to his campaign, to include in-kind contributions and expenditures. The Act does not require a candidate to accept mileage reimbursement for the use of his personal vehicle to attend campaign events. Related campaign travel expenses, beyond mileage, paid for by the candidate are in-kind contributions.

KEY WORDS:	contributions
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ANNOTATIONS:	8-13-1300(7)
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