, 2017

**Re: Case No. 17052.Q, Campaign Financing**

Dear:

This email will confirm the advice I gave you in our conversation [date] 2017.   You explained that last week, you received from the U.S. Postal Service (the “USPS”) a package containing a damaged envelope that itself contained a $1,500 check from Entity “E,” as payor, made payable to your political committee, as payee.  The check was drawn and dated December 2016 by E, and the damaged envelope was postmarked in December 2016.  The check can no longer be deposited, since more than 180 days has passed.  You asked me to assume that E, the check’s payor, is now and was in 2016 subject to the $1,500 contribution limitation per calendar year/per elected official-candidate or political committee under §2-156-445(a) of the City’s Governmental Ethics Ordinance (the “Ethics Ordinance”), and that E had made no other donations to your political committee in 2016.  You also said that E has already contributed $1,500 to your committee in 2017, which is the maximum amount.  You asked whether the Ordinance would prohibit you from having E re-draw a check for $1,500 as a campaign contribution and depositing it in your political account, in effect considering it a contribution for 2016.

I advised you on the phone to contact the General Counsel of the Illinois State Board of Elections (the “ISBE”) and ask him whether, under the Illinois Election Code (the “Election Code”) and the ISBE’s Rules, you could deposit the check in October 2017 and record it as a 2016 contribution, amending whatever D-2s or other forms would be required.  A few minutes later, you called me and said that the ISBE’s General Counsel advised you that this would not be prohibited under the Election Code, and that the only limitation might be under the Ethics Ordinance.  You also explained that you have in your possession the envelope delivered to you by the USPS containing the original $1,500 check from E, drawn in December 2016.

On these facts, I advised you then – and this email will confirm – that the Ethics Ordinance does not prohibit E from re-drawing a $1,500 check now, and you from depositing that check into your political committee’s account now but recording it as a 2016 political contribution, thereby in effect accepting the maximum donations from E in 2016 and 2017.  Our reasoning is based on three (3) factors: (i) E’s intention was to contribute the maximum allowable amount to your committee in 2016 ($1,500) and it acted on that intent by drawing a check made payable to your committee in December 2016; (ii) due to *force majeure* – factors beyond your or E’s control – that check did not arrive until October 2017, by which time E had already contributed the maximum amount allowable for 2017 and your committee had duly recorded the 2017 contribution as such on its D-2 forms with the ISBE; and (iii) recording a contribution received in October 2017 as in effect a contribution received in 2016 is allowable under the Election Code.

Please note that my opinion is based solely on the facts stated in this email.  If any of these facts are inaccurate, please advise me immediately, as that may change my opinion and advice. Thank you for your conscientiousness.

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