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TRAVIS COUNTY ATTORNEY DAVID ESCAMILLA
AND THE REPUBLICAN PARTY OF TEXAS HAVE
ENTERED INTO A DEFERRED PROSECUTION
AGREEMENT REGARDING THE REPUBLICAN
PARTY'S SPENDING OF CORPORATE DONATIONS
DURING THE 2002 ELECTION CYCLE.

Texas Election Code Section 257.002 allows the expenditure of corporate donations to a political committee to defray administrative or operating costs or to administer a primary election or convention.

Travis County Attorney David Escamilla said, "During the 2002 election cycle, the Republican Party of Texas may have violated the Texas Election Code by making expenditures of corporate donations for voter registration, get-out-the-vote, and political consulting fees." Neither the source nor the expenditures of the corporate donations are in dispute.

As part of the deferred prosecution agreement, the Republican Party of Texas stipulated:

1. That on or about August 19, 2002, it paid, with corporate funds, the U.S. Postal Service \$12,199.57 for postage that was used to mail a voter registration mailer.
2. That on or about August 22, 2002, it paid for, with corporate funds, a voter registration/get-out-the-vote mailer of \$49,600.88 and
3. That on or about August 30, 2002, it paid, with corporate funds, a political consulting fee of \$3,706.53.

The crux of the dispute between the Travis County Attorney's Office and the Republican Party of Texas arises because the Texas Election Code does not define or otherwise construe the term "normal overhead and administrative or operating costs." The Texas Ethics Commission, in two separate opinions, has provided guidance in determining whether a particular expenditure of corporate funds can properly be classified as normal overhead or administrative costs. In one of those opinions the Texas Ethics Commission specifically advises that "expenditures for voter registration drives" are not considered to be "normal overhead and administrative costs." Travis County Attorney David Escamilla said, "I am pleased that the Republican Party of Texas entered into an agreement with this Office that looks beyond partisan politics and serves the interests of the public." In agreeing to a definition of what will not be included in normal overhead and administrative costs, we are creating a more transparent political process that benefits the entire electorate.

The Deferred Prosecution Agreement requires the Republican Party of Texas:

1. Not to expend corporate funds for issue advertising related to any candidate for state or local office.
2. Not to expend corporate funds for get-out-the-vote activity, including literature, media, or telephone banking; voter identification; voter registration activity; or political consulting, unless and until the Texas Election Code is amended by the Texas Legislature or interpreted by an opinion of the Texas Ethics Commission or by a final decision of a court of competent jurisdiction to allow such expenditures to be paid with corporate funds.
3. From this date forward to file all reports required by State law or by rule or regulation of the Texas Ethics Commission, including, but not limited to the report filed on form PTY-CORP or its successor form, in an electronic format that will allow those reports to be accessed by the public on the Texas Ethics Commission website, and in sufficient detail to allow a person reading the report to determine what goods, services, or property, both real and personal, were purchased with the expenditure.
4. To send its Executive Director and the person assigned to oversee the Republican Party of Texas' accounting responsibilities, including compliance with FEC and TEC Regulations and reporting, to 10 hours of educational training classes regarding state election law.

As a further part of the agreement between the Travis County Attorney's Office and the Republican Party of Texas, a formal stipulation of facts signed by the authorized agent of the Republican Party of Texas shall be admitted as evidence in a court of law in a criminal case prosecuted by the Travis County Attorney's Office in the event of any breach of the agreement by the Republican Party of Texas.

As long as the Republican Party of Texas complies with the terms of the Deferred Prosecution Agreement, the Travis County Attorney's Office agrees to defer prosecution for the alleged improper expenditures of corporate funds in the 2002 election cycle. Should the Republican Party of Texas breach the Deferred Prosecution Agreement, the Travis County Attorney's Office retains the authority to file criminal actions against the Republican Party of Texas for at least 3 criminal violations of the Texas Election Code, which occurred during the 2002 election cycle. These violations would be filed as separate Class "A" misdemeanors and would carry fines of up to \$10,000.00 each. "Although all parties have entered into this agreement in good faith, I am sure there is no doubt in anyone's mind that if this agreement is breached, I will not only file charges for the 2002 election cycle violations, but I will file charges on any new violations that come to my attention," said County Attorney David Escamilla. The terms of the agreement are to remain binding upon the parties until March 31, 2007.

Travis County Attorney David Escamilla stated in conclusion:

“I am satisfied that the community is best served by the terms of this agreement.

Restrictions are in place that protect the electorate’s right to know by whom campaign donations, corporate or otherwise, are being made and the purposes for which they are being used. No one can deny that all activities of government, including campaigns, serve the people best when done openly and in accordance with the law.”