

## **PAC Has Obligation to Disclose Expenses, Ethics Lawyers Says** GOP Committee says \$600,000 was not Political Expenditure

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State law requires Texans for a Republican Majority to report to state officials how it spent \$600,000 in corporate donations, a lawyer for the Texas Ethics Commission said Wednesday. "If the PAC has taken possession of the money, yeah, you have to report it," general counsel Sarah Woelk said in response to questions about state election laws. "That is clearly what the law says."

Woelk, the state's top campaign finance lawyer, said a political action committee must report all expenditures no matter who donates the money or whether it's spent to run the committee or to help elect a candidate.

Lawyers for Texans for a Republican Majority disagreed with Woelk's interpretation of state law and raised questions about her impartiality. However, Woelk's comments repeat the interpretation given three months ago in a related story by Karen Lundquist, the executive director of the ethics commission.

The commission is in charge of interpreting state election laws for candidates and state office holders.

The \$600,000 is at the center of a civil lawsuit accusing the Republican committee of hiding the money it spent in the 2002 elections and a grand jury investigation into whether corporate money was illegally used to affect the outcome of almost two dozen legislative elections.

A reporting violation carries a penalty of a \$500 fine per campaign finance report, about \$4,500 in this example, and the grand jury investigation concerns a different state law barring the use of corporate money as campaign expenditures.

Ethics Commission officials can pursue a fine only if a complaint is filed and the commission refers the case to prosecutors. Commission officials cannot comment about whether a complaint is pending.

Lawyers for four Democratic legislative candidates are suing to collect damages for twice the amount of unreported expenditures.

And a court ruling that Texans for a Republican Majority failed to disclose six-figure expenditures only would stoke the fires of the high-stakes criminal investigation of

a political committee associated with U.S. House Majority Leader Tom DeLay, R-Sugar Land, and state House Speaker Tom Craddick, R-Midland.

Woelk's answers to questions about the campaign finance law had both sides wrestling for advantage.

"It illustrates what we have always said, 'The defendants broke the law and did an end-run around provisions guaranteeing the integrity of the electoral process,' " said Austin lawyer Cris Feldman, who brought the lawsuit on behalf of four Democratic candidates who lost in 2002 races targeted by the Republican majority group.

Austin lawyer Terry Scarborough, who represents the Republican Majority committee, said the committee did not have to disclose the \$600,000 because it was spent on administrative expenses and not to elect or defeat candidates.

"They are not political expenditures," Scarborough said. "I respectfully disagree with Ms. Woelk and question the timing of her comments when we are in the middle of a lawsuit."

He noted that the Ethics Commission is barred from issuing advisory opinions about pending litigation.

"If she purports to give a quote to the news media," Scarborough said, "that is no different than an advisory opinion."

Woelk said she was just explaining the law, not issuing an opinion.

Scarborough also questioned Woelk's impartiality.

He said David Richards of San Francisco, a lawyer for the Democratic candidates, has an Austin office at the law firm of Phil Durst. Woelk and Durst are married.

Richards said he has not been a partner at the law firm for more than a decade and serves the firm only in an advisory role.

Richards and Durst said the law firm has no financial interest or involvement in the lawsuit against Texans for a Republican Majority.

"I didn't even know David's in this lawsuit," Woelk said of Richards, the ex-husband of former Gov. Ann Richards.

Woelk said she would refer all future calls about the law on expenditures by political committees to her boss, Lundquist, who gave the same interpretation three months ago before the lawsuit had become prominent news at the Capitol.

In the fall of 2001, DeLay and his allies created Texans for a Republican Majority, which raised and spent almost \$1.5 million in 22 state legislative races in 2002.

In its reports to the state, the committee did not disclose how it spent the \$600,000 it raised from corporations, which can give money for a committee's administrative overhead but not to campaign for or against candidates. But a one-time fluke in federal regulations forced the committee to disclose the expenditures.

In addition to routine overhead, the committee spent corporate money on polls, candidate research, consultants, phone banks and similar expenses.

Scarborough has said the money spent on polls, research, phone banks and consultants did not have to be reported to the public because those services were for the internal use of the committee and weren't used to benefit the Republican candidates.

He said his client reported its expenditures just as other political committees do.

"You look at other PACs, you won't see their 'expenses' that weren't political expenditures," he said.

If Woelk is right, however, it could undercut the Republican committee's defense.

Woelk said the Ethics Commission has issued opinions about corporate contributions and the definition of administrative expenses, but not on the law requiring a political committee to disclose all political expenditures, including money used to run the committee.

She said she understands the confusion among officials who run political committees.

Woelk said state law anticipated a corporation establishing its own political committee and paying its administrative overhead.

"If a corporation pays an electric bill directly, there is nothing to report," she said. "If a corporation gives the PAC the money to pay the electric bill, the PAC has to report the expenditure when it pays the electric bill."

Fred Lewis with Campaigns for People, a group that lobbies on campaign finance laws, said the controversy underscores the weakness of the state's reliance on political players disclosing how much money they are giving and spending.

Unlike federal campaigns, Texas has no limits on how much money can be donated. The Texas Ethics Commission has no authority to audit campaign finance records randomly to verify full disclosure.

"If you have no audits and only a \$500 fine," Lewis said, "then people are going to disregard the law."