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ADVISORY OPINION 2020 - 1

The House Legislative Ethics Committee (HEC) received a request from a Member for an advisory opinion. The Member stated that she was offered complimentary clothing loans as a female running for office, by women owned clothier, M.M. LaFleur. She explained that the company would require her to complete a survey, which includes that she acknowledge that she is aware of M.M. LaFleur's status as C Corporation. She reported that the company would require her to take full responsibility to ensure compliance for a loan of clothing under her state election laws. The Member questioned whether she could ethically accept this loan of clothing to use in her campaign.

Pursuant to House Rule 4.16C.(4), the Committee renders the following advisory opinion.

DISCUSSION

1. Background on M.M. LaFleur's Lending Program to Female Candidates

M.M. LaFleur, a women's clothing company, has offered to dress local, state, and federal female candidates that are campaigning for public office.¹ Candidates are required to email their campaign information (name, location, and description of the office they are running for) to readytorun@mmlafleur.com, and then they are set up with a stylist and free clothing on loan.² The stipulation is that the candidates donate the clothes after their respective campaigns are over, or when they are finished using the clothes, to the Bottomless Closet, a non-profit that gives women outfits and training in preparation for entering the workforce.³ The company has indicated that they are willing to lend clothes to female candidates of any party.⁴

¹ <https://www.chicagotribune.com/columns/heidi-stevens/ct-heidi-stevens-mmlafleur-free-clothes-for-women-candidates-0221-20200221-gvpdptesbjdwtmj5ysaf4crsri-story.html>.

² *Id.*

³ *Id.*

⁴ <https://thehill.com/blogs/blog-briefing-room/news/483460-clothing-company-to-provide-free-clothing-to-any-woman>.

At the federal level, accepting borrowed clothing by a candidate could be considered an in-kind contribution, as long as it comes from an individual or PAC rather than a corporate entity. It must also comply with contribution limits and reporting practices.⁵ At the state and local level, M.M. LaFleur is requiring that the candidates in state and local races ensure that the donation of clothing is permissible under the applicable campaign finance laws.⁶

2. Applicable Law

The Ethics Government Accountability and Campaign Reform Act of 1991 (the Ethics Act) governs the amount and reporting requirements for campaign contributions received by SC House Members and candidates. Specifically, the Ethics Act permits a Member or candidate to receive a contribution not to exceed \$1,000.00 within an election cycle. See S.C. Code Ann. Section 8-13-1314(A)(1)(c). Pursuant to Section 8-13-1300(10), election cycle means

the period of a term of office beginning on the day after the general election for the office, up to and including the following general election for the same office, including a primary, special primary, or special election; however, the contribution limits under Sections 8-13-1314 and 8-13-1316 apply only to elections occurring on or after January 1, 1992, and are for each primary, runoff, or special election in which a candidate has opposition and for each general election. If the candidate remains unopposed during an election cycle, one contribution limit shall apply.

Section 8-13-1300(10). Contribution is defined as:

a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in-kind contribution or expenditure, a deposit of money, or anything of value made to a candidate or committee to influence an election; or payment or compensation for the personal service of another person which is rendered for any purpose to a candidate or committee without charge, whether any of the above are made or offered directly or indirectly. "Contribution" does not include (a) volunteer personal services on behalf of a candidate or committee for which the volunteer or any person acting on behalf of or instead of the volunteer receives no compensation either in cash or in-kind, directly or indirectly, from any source; . . . These funds must be deposited in an account separate from a campaign account as required in Section 8-13-1312.

S.C. Code Ann. Section 8-13-1300(7). (emphasis added). Section 8-13-1300(20) provides: "In-kind contribution or expenditure means goods or services which are provided to or by a person at no charge or for less than their fair market value." (emphasis added). A Member or candidate must maintain a record of the contributions received to include the name and address of each person or company making a contribution, the amount and date of each contribution and then the Member

⁵<https://www.chicagotribune.com/columns/heidi-stevens/ct-heidi-stevens-mm1lafleur-free-clothes-for-women-candidates-0221-20200221-gvdpptesbjdwtnj5ysaf4crsri-story.html>.

⁶ <https://www.washingtonpost.com/business/2020/02/19/are-you-woman-running-office-mm-lafleur-wants-lend-you-campaign-trail-clothes-free/>.

or candidate must file this information in a campaign disclosure report. See Sections 8-13-1302 and 8-13-1308.

In this scenario, the Committee finds that M.M. LaFleur is offering the Member or candidate an in-kind contribution by lending the Member or candidates clothes for the campaign at no charge. The Committee further finds that the Member or candidate is limited to accepting clothes with a value not to exceed \$1,000.00 within an election cycle. The Member or candidate must report this in-kind contribution on her campaign disclosure report. The Committee notes that the Member or candidate is responsible for donating the clothing to the nonprofit, the Bottomless Closet, when the campaign ends or she finishes using the clothes as requested by M.M. LaFleur.

CONCLUSION

In summary, the Committee finds the female Member or candidate may accept an in-kind contribution of clothing with a value not to exceed \$1,000.00 within an election cycle from M.M. LaFlure. The Member or candidate must report this in-kind contribution on her applicable campaign disclosure report. The Member or candidate is then responsible for donating the clothing to the nonprofit, the Bottomless Closet, when the campaign ends or she finishes using the clothes as requested by M.M. LaFleur.

Adopted March 4, 2020.