



## KENTUCKY REGISTRY OF ELECTION FINANCE

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### ADVISORY OPINION 2012-001

Any Advisory Opinion rendered by the Registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the Advisory Opinion is required. KRS 121.135(4).

February 1, 2012

**VIA FACSIMILE 502.459.5309**  
**AND FIRST CLASS U.S. MAIL**

Jim King, CPA  
King & Company PSC  
3400 Dutchmans Lane  
Louisville, KY 40205

**In re: Contribution as distinguished from personal gift (AO 2012-001)**

Dear Mr. King:

This Advisory Opinion is sent in response to your December 27, 2011 request for an Advisory Opinion from the Kentucky Registry of Election Finance ("Registry") regarding the following question:

Under Kentucky Election Finance Statutes, is there a limit on the amount of personal monetary gifts my wife and I may give our daughter, Judge Kathryn R. King, at any time?

**In re: Contribution as distinguished from personal gift (AO 2012-001)**

The Registry received your request on January 3, 2012. Pursuant to KRS 121.135(5)(a), your request was posted for public comment on January 4, 2012. No public comments were received.

Registry records reflect that Judge Kathryn R. King has an open campaign account from her 2010 campaign for District Judge, District 30, Division 16. The campaign account is administered by a registered candidate campaign committee, specifically the Committee to Re-elect Judge Katie King, Chris Fralick, CPA, Treasurer. As of its last election finance statement filed November 12, 2011, the committee reported an ending balance of -0- with \$196,960.15 in debt owed to Candidate King as a result of personal loans she made to the committee.

Under Kentucky's campaign finance law, the definition of "contribution" includes any payment, distribution, loan, deposit, or *gift of money* or other thing of value to a candidate or her agent. See KRS 121.015(6)(a). Emphasis added. A candidate may contribute, loan, or otherwise expend an unlimited amount of personal funds on behalf of her own campaign. *Anderson v. Spear*, 356 F.3d 651, 667 (6<sup>th</sup> Cir. 2004). However, no person other than the candidate may contribute more than one thousand dollars (\$1,000) to a candidate, campaign committee, or anyone acting on their behalf in any one (1) election. See KRS 121.150(6). Likewise, no candidate, campaign committee or anyone acting on the candidate's behalf, may accept a contribution of more than one thousand dollars (\$1,000) *from any person* per election. (Emphasis added).

Kentucky law does not permit contributions to be made by one person in the name of another and contains no exception for gifts, even among family members. See KRS 121.150(12) and KRS 121.015(6). For this reason, where a campaign has reported receipt of candidate campaign contributions or candidate campaign loans which in reality were from the funds or resources of a candidate's immediate family member, the Registry has consistently found the gift to be a contribution in violation of Kentucky's campaign finance law. (See e.g. Case # 2006-695, *Barber v. Stumbo*; Case # 2009-110, *Registry v. Henry-True for Kentucky, et al.*; and Case # 2009-066, *Springston v. King, et al.*) The Registry has recognized that gifts of a personal nature that had been customarily received by the candidate prior to his or her candidacy, which were not made or received in relation to the candidate's campaign, constitute personal funds of the candidate. By contrast, extraordinary monetary gifts, given in contemplation of a candidate's needs to fund an election campaign, constitute campaign contributions. *Id.*

Given these parameters, you and your wife's gifts to your daughter, Judge Kathryn R. King, should only be made consistent with a pattern of gifting or your estate plan, without any regard to the personal loan Judge King made to her 2010 campaign committee account or in contemplation of funds she may need to fund a future candidacy. For example, if you and your wife have customarily given your children, including Judge King, the maximum amount that is annually exempted from federal gift taxes, then future personal gifts to Judge King in a similar amount will not be construed as contributions. Great care should be taken to avoid any

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appearance that you are personally funding your daughter's campaign efforts over and above the statutorily permissible contribution limits, and you may wish to consult a gift and estate tax planning professional to assist you in this regard.

Please keep in mind that this Advisory Opinion is based on the specific facts set forth in your written request and does not cover past conduct. If you have any questions concerning this Advisory Opinion, please do not hesitate to contact the Registry. Thank you.

Very truly yours,



EMILY DENNIS  
General Counsel

Cc: Registry Members  
Sarah M. Jackson, Executive Director