



CHEROKEE NATION ELECTION COMMISSION

Ph: 918-458-5899 | TF: 800.353.2895 | F: 918.458.6101

AGENDA SPECIAL MEETING

Wednesday, March 22nd, 2023

4:00 PM

- I. Call to order
- II. Roll call
- III. Approval of Minutes from the March 14th Special Meeting
- IV. Old Business
- V. Current Items
 - a. Consideration and possible action on Hart extended warranty
 - b. Consideration and possible action on Election Forms
 - c. Consideration and possible action on election setup
 - d. Consideration and possible action regarding OME Genesis
- VI. Executive Session
 - a. Confidential discussion with attorney on pending litigation, claims, investigations or protests
 - 1. Consideration and possible action regarding Cornsilk and Hiler complaints
 - b. Personnel
 - c. Exit Executive Session
- VII. Action from Executive Session
- VIII. Announcements
- IX. Adjourn

POSTED
3/2/23 2:10m

March 21, 2023 by 4:00 PM
Cherokee Nation Election Office
17763 S. Muskogee Ave
Tahlequah, OK 74464

Chairperson: Rick Doherty

Posted by: _____



CHEROKEE NATION ELECTION COMMISSION

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CHEROKEE NATION ELECTION COMMISSION

Special Meeting Minutes

Wednesday, March 22nd, 2023

I. Call to order

- The Special Meeting of the Cherokee Nation Election Commission was called to order by Chairperson Rick Doherty at 4:00 P.M.

II. Roll call

- Election Commission Secretary Shawna Calico called roll and a quorum was established with the following Commissioners present:

Rick Doherty – Chairperson
Pamela Sellers – Vice Chairperson
Shawna Calico – Secretary
Randy Campbell – Commissioner
Elizabeth Ballew – Commissioner

- Office staff present: Marcus Fears and Connie Parnell
- Election Commission Attorney Harvey Chaffin was present.
- Election Commission Investigator Nick Goodwin was present.

III. Approval of Minutes

- Chairperson Rick Doherty asked for approval and/or discussion regarding the minutes of the March 14th Special Meeting. Pam Sellers made a motion, which was second by Randy Campbell to table the March 14th Special Meeting minutes. The motion was approved by all Commissioners.

IV. Old Business

- None

V. Current Items

- Consideration and possible action on Hart extended warranty. Pam Sellers made a motion, which was second by Randy Campbell to approve the Hart extended warranty. The motion was approved by all Commissioners.
- Consideration and possible action on Election Forms. Pam Sellers made a motion, which was second by Randy Campbell to approve the Election Forms presented. The motion was approved by all Commissioners.



CHEROKEE NATION ELECTION COMMISSION

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- Consideration and possible action on election setup. Connie Parnell just showed examples of what the ballot styles would look like.
- Consideration and possible action regarding OME Genesis. Pam Sellers made a motion, which was second by Randy Campbell to approve the purchase of a new copy machine for the amount of 12,796.00. The motion was approved by all Commissioners.

VI. Executive Session

- Pam Sellers made a motion, which was second by Randy Campbell to enter Executive Session at 4:18 P.M. The motion was approved by all Commissioners.
- Pam Sellers made a motion, which was second by Randy Campbell to exit Executive Session at 4:57 P.M. The motion was approved by all Commissioners.

VII. Action from Executive Session

- Pam Sellers made a motion, which was second by Randy Campbell to send a response letter to Mr. Hiler regarding his complaint. The motion was approved by all Commissioners.
- Pam Sellers made a motion, which was second by Randy Campbell to send a response letter and a copy of AG opinion 2015-CNAG-01 to Mr. Cornsilk regarding his complaint. The motion was approved by all Commissioners.

VIII. Announcements

- Marcus reported on doc. disposal on 4-4-23, financial letters and checking into a barrier for the front desk. Connie Parnell reported on the good work the girls at the front are doing and that our press release had been sent to the Chad at the Cherokee Phoenix.

IX. Adjourn

- Pam Sellers made a motion, which was second by Randy Campbell to adjourn at 5:25 P.M. The motion was approved by all Commissioners. The meeting was adjourned.

Minutes submitted by Shawna Calico, Secretary/Treasurer

Shawna Calico



Quote Number

00011161

Account Name

Cherokee Nation, OK

Grand Total

\$8,400.00

Expiration Date

4/11/2023

Payment Terms

Net 30

Please fax with signature to or scan and email to ssaenz@hartic.com to order.

Item	Description	Unit Price	Quantity	Total Price
Extended Warranty (1 Yr) - Verity Scan	1 year extended warranty for Verity Scan	\$120.00	70	\$8,400.00
Subtotal				\$8,400.00
Grand Total				\$8,400.00

Bill To P.O. Box 1188
Tahlequah, OK 74465

Ship To 17763 S Muskogee Ave.
Tahlequah, OK 74464

Customer Contact

Contact Name Connie Parnell

Email connie-parnell@cherokee.org

Phone (918) 458-5899

Terms and Conditions

Taxes will be calculated in conjunction with the Customer based on the final approved price list.

Hart Approval

Prepared By Simon Saenz

Title Sales Account Manager

Signature

Customer Approval

Name: _____

Title: _____

Customer Approval: _____

Date: _____

**VOTE YOUR ABSENTEE
BALLOT AND RETURN AS
SOON AS POSSIBLE IN THE
POSTAGE PAID ENVELOPE**

**VOTE YOUR ABSENTEE
BALLOT AND RETURN AS
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POSTAGE PAID ENVELOPE**

Marcus Fears

From: Brandt Hiler <adrenalinemedic508@yahoo.com>
Sent: Wednesday, March 15, 2023 11:03 AM
To: Election Commission
Subject: <EXTERNAL> Complaint

This is Brandt hiler I have a complaint against the campaign of Cara Cowan Watts which obtained my 12 year old sons cell phone number, he has autism and believed he was being harassed by scammers, he wrote a reply which was meant for what he believed to be someone trying to scam him and it turned into a death threat against a campaign member. I was questioned at work and had to prove my innocence and my job was in jeopardy. I would like the know how they obtained my sons number as he is 12 and obviously not able to be on any voter registration or have we ever associated his cell phone number with any Cherokee nation service or organization. I would like a reply from the campaign manager to see how this info was obtained and possibly even new safeguards in place to make sure this issue doesn't happen to anyone else. I would like a reply to this email to know a resolution to this issue.

Thanks Brandt Hiler.

IN AND FOR THE CHEROKEE NATION ELECTION COMMISSION

DAVID CORNSILK,)

Complainant)

)

v.)

Complaint No. _____

)

CARA COWN WATTS,)

Respondent)

PURPOSE

COMES NOW, David Cornsilk, a certified candidate for the office of Principal Chief (hereinafter Complainant), and hereby files this Complaint to the Honorable Election Commission (hereinafter Commission), for the purpose of determining violations of Cherokee Nation Legislative Act 14-22, Chapter 5, Section 43-Part B (hereinafter Act), by a candidate for the office of Principal Chief, which states in pertinent part: No natural person shall contribute more than five thousand dollars (\$5,000) in cash or in-kind to any one Candidate during an election period.

PARTIES

1. Complainant is a citizen by blood of the Cherokee Nation and candidate for the office of Principal Chief, as certified by the Cherokee Nation Election Commission, with an office located in Tahlequah, Oklahoma, within the Cherokee Nation Reservation.
2. Cara Cowan Watts (hereinafter Respondent) is a citizen by blood of the Cherokee Nation and candidate for the office of Principal Chief, as certified by the Cherokee Nation Election Commission, with an office located in Rogers County within the Cherokee Nation Reservation.

JURISDICTION and STANDING

Cherokee Nation Election Commission (hereinafter Commission) has jurisdiction over civil enforcement of the Cherokee Nation campaign finance laws and determination of violations of the Act referenced above.

Complainant has standing to file this complaint per Section 45, Part E of the Act, which states in pertinent part: "No third party complaints, unless a candidate is unopposed, only opposing candidates) shall have the right to file a complaint related to the Financial Disclosure Report. Complainant is an opposing candidate of Respondent.

CHEROKEE NATION
MAR 15 2023
ELECTION COMMISSION FILE

COMPLAINT

Respondent and Walkingstick are "Natural Persons" as defined in the Act, which states: "Contributions may only be made by individual natural persons. No corporations, partnership, and/or any other legal entity shall contribute to any Cherokee Nation campaign or Candidate." On or about the 3rd day of December, 2022, Cara Cowan Watts, candidate for the office of Principal Chief (hereinafter Respondent), and David Walkingstick (hereinafter Walkingstick), did commence their campaigns for the offices of Principal Chief and Deputy Principal Chief, respectively, making their contributions to each other in all aspects of their campaign, indistinguishable, including campaign signs, headquarters and offices, staff, mail outs, events, literature and any other known and unknown collusions, making contributions, each to the other in both cash and in-kind contributions in eventual violation of the above stated section of the above-referenced Cherokee Nation election law. Over the course of their campaigns from the date stated above to the present and ongoing, they have made contributions each to the other, far in excess of the \$5,000 limit set by law. Accordingly, Respondent is in violation of Section 44, Part G, which states: "No candidate or Financial Agent, corporation, legal entity or other person shall knowingly accept a campaign contribution or knowingly make or authorize political expenditures that the Candidate or his or her Financial Agent knows to have been made in violation of this Section 43 of this title nor shall any Candidate Financial Agent or Citizen offer or provide something of value intended to influence the vote of a voter of the Cherokee Nation, and no Candidate, Financial Agent or Citizen shall solicit or accept campaign funds or contributions that violates Sections 43 and 44 of this Title." The violation of the Act was willful and intentional by Respondent. The Respondent holds a PhD and has served several years on the Cherokee Nation Tribal Council, writing and voting on laws. Respondent has been provided the Act in her candidate packet by the Commission and knew or should have known contributions of cash and in-kind by a running mate would quickly burn through the \$5,000 limit. Every time a sign is printed, a call made and an event held bearing the names of Cara Cowan Watts and David Walkingstick, they made substantial financial and in-kind contributions to each other's campaigns. This violation is more than mere endorsements but is in fact collusion by the two campaigns in the name of a ticket or slate which violates Cherokee Nation law in unfair furtherance of each of their campaigns.

PRAYER FOR RELIEF

WHEREFORE, all premises considered, Complainant prays for the following relief:

1. Complainant asks the Commission to call for a disqualification hearing on these allegations against Respondent, Cara Cowan Watts, according to Chapter 3, Sections 43, 44, 46, 48 and/or 104 of this Title, which states in pertinent part: "the Election Commission shall initiate a disqualification hearing" or any other authority known or unknown granting authority to the Commission to initiate disqualification hearings against candidates.
2. Complainant further requests the Commission to refer these allegations to the Cherokee Nation Attorney General for consideration regarding criminal prosecution against Respondent and her accomplices, disqualification of Respondent and appropriate sanctions against others as they may be discovered per Section 45 Part A of the Act – CriminalSanctions.
3. Complainant requests such further and other legal and equitable relief as the Commission may deem just and necessary under the circumstances.

CHEROKEE NATION
MAR 15 2023
ELECTION COMMISSION FILED

RESERVATION OF RIGHTS

Complainant reserves all rights that Complainant may possess as a candidate, citizen and complainant to call witnesses, provide evidence, take testimony, examine and cross-examine witnesses and give his own testimony at any hearing called by the Commission on this matter and requests all communication between said Commission, Respondent and Complainant to be in writing. Complainant reserves all rights granted to Complainant under Section 45, Part B of the Act – Civil Damages.

DATED this 15th day of March, 2023. David Cornsilk David Cornsilk,
Complainant Candidate for Principal Chief Cherokee Nation Election 2023

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served by means of the following: _____ First Class Mail, postage prepaid, or X Email, or _____ Fax upon:

Cara Cowan Watts, Respondent

caracowanwatts@gmail.com

CHEROKEE NATION
MAR 15 2023
ELECTION COMMISSION FILED



Cowan-Watts & Walkingstick for Cherokee Nation.

Sponsored · Paid for by Cara Cowan Watts ·



Join Cara and David for a night of friendship, fun, and food. Additionally, you can learn about the issues, register to vote, request a ballot, and get involved with the campaign.



COWAN WATTS

WALKINGSTICK
 CHIEF | DEPUTY CHIEF



**TAHLEQUAH
CAMPAIGN
KICKOFF**

www.caracowanwatts.com

MARCH 14TH
5:30-7PM

TAHLEQUAH
COMMUNITY
BUILDING

908 S COLLEGE AVE
TAHLEQUAH, OK

TUE, MAR 14 AT 5:30 PM

**Cowan Watts - Walkingstick |
Tahlequah Rally & Hog Fry**

INTERESTED



Shared to Discussion for Cherokee Nati...



Brian Jackson and 15 others

4 Comments

IN AND FOR THE CHEROKEE NATION ELECTION COMMISSION

DAVID CORNSILK,)

Complainant)

)

v.)

Complaint No. _____

)

CHUCK HOSKIN JR,)

Respondent)

PURPOSE

COMES NOW, David Cornsilk, a certified candidate for the office of Principal Chief (hereinafter Complainant), and hereby files this Complaint to the Honorable Election Commission (hereinafter Commission), for the purpose of determining violations of Cherokee Nation Legislative Act 14-22, Chapter 5, Section 43-Part B (hereinafter Act), by a candidate for the office of Principal Chief, which states in pertinent part: No natural person shall contribute more than five thousand dollars (\$5,000) in cash or in-kind to any one Candidate during an election period.

PARTIES

1. Complainant is a citizen by blood of the Cherokee Nation and candidate for the office of Principal Chief, as certified by the Cherokee Nation Election Commission, with an office located in Tahlequah, Oklahoma, within the Cherokee Nation Reservation.
2. Chuck Hoskin Jr. (hereinafter Respondent) is a citizen by blood of the Cherokee Nation and candidate for the office of Principal Chief, as certified by the Cherokee Nation Election Commission, with an office located in Rogers County within the Cherokee Nation Reservation.

JURISDICTION and STANDING

Cherokee Nation Election Commission (hereinafter Commission) has jurisdiction over civil enforcement of the Cherokee Nation campaign finance laws and determination of violations of the Act referenced above.

Complainant has standing to file this complaint per Section 45, Part E of the Act, which states in pertinent part: "No third party complaints, unless a candidate is unopposed, only opposing candidates) shall have the right to file a complaint related to the Financial Disclosure Report. Complainant is an opposing candidate of Respondent.

CHEROKEE NATION
MAR 15 2023
ELECTION COMMISSION FILED

COMPLAINT

Respondent and Bryan Warner are "Natural Persons" as defined in the Act, which states: "Contributions may only be made by individual natural persons. No corporations, partnership, and/or any other legal entity shall contribute to any Cherokee Nation campaign or Candidate." On or about the 3rd day of December, 2022, Chuck Hoskin Jr., candidate for the office of Principal Chief (hereinafter Respondent), and Bryan (hereinafter Warner), did commence their campaigns for the offices of Principal Chief and Deputy Principal Chief, respectively, making their contributions to each other in all aspects of their campaign, indistinguishable, including campaign signs, headquarters and offices, staff, mail outs, events, literature and any other known and unknown collusions, making contributions, each to the other in both cash and in-kind contributions in eventual violation of the above stated section of the above-referenced Cherokee Nation election law. Over the course of their campaigns from the date stated above to the present and ongoing, they have made contributions each to the other, far in excess of the \$5,000 limit set by law. Accordingly, Respondent is in violation of Section 44, Part G, which states: "No candidate or Financial Agent, corporation, legal entity or other person shall knowingly accept a campaign contribution or knowingly make or authorize political expenditures that the Candidate or his or her Financial Agent knows to have been made in violation of this Section 43 of this title nor shall any Candidate Financial Agent or Citizen offer or provide something of value intended to influence the vote of a voter of the Cherokee Nation, and no Candidate, Financial Agent or Citizen shall solicit or accept campaign funds or contributions that violates Sections 43 and 44 of this Title." The violation of the Act was willful and intentional by Respondent. The Respondent holds a Juris Doctorate and has served several years on the Cherokee Nation Tribal Council, writing and voting on laws. Respondent has been provided the Act in her candidate packet by the Commission and knew or should have known contributions of cash and in-kind by a running mate would quickly burn through the \$5,000 limit. Every time a sign is printed, a call made and an event held bearing the names of Chuck Hoskin Jr. and Bryan Warner, they made substantial financial and in-kind contributions to each other's campaigns. This violation is more than mere endorsements but is in fact collusion by the two campaigns in the name of a ticket or slate which violates Cherokee Nation law in unfair furtherance of each of their campaigns.

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2. Complainant further requests the Commission to refer these allegations to the Cherokee Nation Attorney General for consideration regarding criminal prosecution against Respondent and his accomplices, disqualification of Respondent and appropriate sanctions against others as they may be discovered per Section 45 Part A of the Act – Criminal Sanctions.
3. Complainant requests such further and other legal and equitable relief as the Commission may deem just and necessary under the circumstances.

CHEROKEE NATION
MAR 15 2023
ELECTION COMMISSION FILE

RESERVATION OF RIGHTS

Complainant reserves all rights that Complainant may possess as a candidate, citizen and complainant to call witnesses, provide evidence, take testimony, examine and cross-examine witnesses and give his own testimony at any hearing called by the Commission on this matter and requests all communication between said Commission, Respondent and Complainant to be in writing. Complainant reserves all rights granted to Complainant under Section 45, Part B of the Act – Civil Damages.

DATED this 15th day of March, 2023. David Cornsilk David Cornsilk,
Complainant Candidate for Principal Chief Cherokee Nation Election 2023

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served by means of the following: _____ First Class Mail, postage prepaid, or ☒ Email, or _____ Fax upon:

Chuck Hoskin Jr., Respondent

Chuck-Hoskin@cherokee.org

CHEROKEE NATION
MAR 15 2023
ELECTION COMMISSION FILE



CHEROKEE NATION
OFFICE OF THE ATTORNEY GENERAL

P.O. Box 948
Tahlequah, OK 74465-0948
918-453-5000

Todd Hembree
Attorney General

OPINION OF THE CHEROKEE NATION ATTORNEY GENERAL

Question Submitted by: Harvey Chaffin, Attorney for the Cherokee Nation Election Commission, on behalf of the Cherokee Nation Election Commission

Opinion Number: 2015-CNAG-01

Date decided: February 26, 2015

This Office has received your request for an official Attorney General Opinion in which you ask, in effect, the following question:

1. What is the proper procedure regarding campaign finance accounting for multi-candidate campaign materials for joint candidates for Executive office and for a "slate" of candidates for both Executive office and Legislative office; *e.g.* campaign signs that contain the names of more than one candidate for elective office.

As we understand the factual basis for your question, the Cherokee Nation Election Code sets forth the statutory requirements for the disclosure of campaign finances in 26 CNCA, Chapter 5, §§ 41-47, but does not specifically reference how to treat multi-candidate campaign materials.

Background

The Cherokee Nation Election Code (the "Election Code"), in its current incarnation, is codified at Title 26 of the Cherokee Nation Code and was enacted pursuant to Legislative Act 04-14, which was passed by the Tribal Council on February 10, 2014 and subsequently signed into law by the Principal Chief. The Election Code is the controlling law for the conduct of all Cherokee Nation elections for any elective office, Constitutional amendments, initiatives and referenda of the Cherokee Nation. 26 CNCA § 1.

The Cherokee Nation Election Code, 26 CNCA § 1, *et seq.*, contains a number of sections regarding the collection, use and disclosure of campaign funds. Section 41 defines "campaign contribution" to mean a contribution in money or services offered or given with the intent that it be used in connection with a campaign. "Campaign expenditure" is defined to mean an expenditure of money or services in connection with a campaign for elective office or on behalf of a ballot measure. This Section also describes "in-kind contribution" as a campaign contribution of goods or services rather than a money donation.

Section 43 mandates that only individual natural persons may contribute to campaigns and that those contributions are limited to \$5000 in cash or in-kind contributions. Section 44 prohibits any personal use of campaign contributions and mandates that left over contributions be placed in an escrow account to be used for

costs of subsequent elections.¹ This Section further limits anonymous contributions to \$1000 in the aggregate to any one candidate per election period. Section 45 makes it a criminal offense for any Indian to violate any provision of Sections 43 and 44 and may result in the disqualification of an elective candidate.

Sections 46 and 47 detail the use of financial disclosure reports which must be submitted monthly to the Election Commission and a final report to be submitted at least five days prior to the swearing in of the successful candidates. The disclosure reports shall certify all contributions and expenditures for each reporting period and any candidate or candidate's financial agent who knowingly fails to fully disclose the required information is guilty of a crime and any such person convicted of such a crime is barred from holding elective office with the Cherokee Nation for five years and may be subject to removal if already elected and sworn into office.

ANALYSIS AND DISCUSSION

A. Introduction

In responding to your question, we must examine the Cherokee Nation Election Code. The Election Commission has the primary jurisdiction to "[i]nvestigate and audit all financial reports and disclosures required" by the Election Code. 26 CNCA § 11(C)(12)(F). Thus, this Office would typically defer to the Election Commission's interpretation for those areas of the Election Code. However, when an official opinion is requested of this Office pursuant to the Attorney General Act, LA 12-07, this Office shall opine as to such a question of law and said opinion "shall have the force of law in the Cherokee Nation until a differing opinion or order is entered by a Cherokee Nation court..." LA 12-07, codified at 51 CNC § 104(B)(4).

With respect to interpretation of the Election Code, several principles of statutory construction are relevant to your inquiry. The first being that ascertaining and effectuating legislative intent should be done whenever possible. Next, statutes should be given a reasonable and practical construction that is consistent with the purpose and policy stated in the statute. Finally, because the Election Code section in question may attach criminal penalties to any violation thereof, the statute must be narrowly construed.

While some other jurisdictions have addressed similar questions, this appears to be an issue of first impression in Cherokee Nation jurisprudence. A thorough review of the Election Code does not reveal any prohibition on candidates running as a "ticket" or "team" in joint candidacy. Nor is there any express prohibition on "slate" candidacy. Any such prohibition, were it to appear in the Election Code, would be of questionable constitutionality as it would burden candidates' rights of free speech and free association. There is also nothing in the Election Code which would prohibit one candidate from making a contribution to another candidate's campaign, notwithstanding that any such contribution would have to be made by the individual candidate (not the candidate's campaign or any such committee or group) and would be subject to the \$5000 limitation on cash or in-kind contributions.

B. Joint Campaigns for Principal Chief and Deputy Chief

As previously noted, there is no express prohibition against joint campaigns in the Cherokee Nation. While candidates for Principal Chief and Deputy Chief appear on separate ballots in Cherokee Nation elections, Chief and Deputy Chief candidates have historically run as a "ticket" in the general election. Had the Tribal Council intended to prohibit this practice, one would expect specific language to this effect to appear in the Election Code, although such a prohibition would be of questionable constitutionality.

In fact, it is quite logical that candidates for Principal Chief and Deputy Chief would run as joint candidates. These are the two highest elective offices of the Executive Branch of the Cherokee Nation government. The nature and duties of these offices are so intertwined that close teamwork and cooperation between the office-holders is required on a daily basis.

¹ There is concern that provisions for the turnover of unused campaign funds may constitute an unconstitutional taking of private property for public use without just compensation as prohibited by Article III, Section 3 of the Cherokee Nation Constitution, but that Question is not currently before this Office.

The real question in this analysis is if a single candidate bears the entire cost of joint campaign materials, does that constitute a contribution to the second candidate's campaign? The definition of in-kind contribution means any campaign contribution of a good or service rather than a money donation. *See* 26 CNCA § 41(G). Campaign contribution includes a contribution to a candidate that is offered or given with the intent that it be used in connection with a campaign for elective office. *See* 26 CNCA § 41(A). Campaign expenditure includes an expenditure of money or services incurred in connection with a campaign for elective office. *See* 26 CNCA § 41(B). While there are limitations on the amount of campaign contributions that a candidate may accept, there are no corresponding limitations on campaign expenditures. *See* 26 CNCA §§ 43, 44.

A joint campaign could not occur without the knowledge and consent of each candidate; if it were to happen without consent then one candidate could be held liable for fraudulently appropriating the other candidate's name. For true joint candidates, there is virtually no distinction between their campaigns. While it could be said that the purchase of joint campaign materials by only one candidate primarily serves the purpose of promoting the purchaser's campaign, it is at least partially motivated by the desire to also promote the purchaser's running mate. However, promoting the joint interests of the "ticket" or "team" is secondary to the purchaser's main goal: to promote his own election to office. As such, the purchase of joint campaign materials by only one candidate would constitute campaign expenditures for the purchaser and would have to be accounted for accordingly. In such a situation the full amount of the cost for the joint campaign materials would have to be listed as an expenditure on the purchaser's Financial Disclosure Report (FDR). An attempt to further classify the purchase of joint campaign materials as a campaign contribution would have the practical effect of limiting the purchaser's ability to make campaign expenditures, which is contrary to the Election Code and is of dubious constitutionality.²

C. "Slate" Campaigns for Executive Office and Legislative

As noted above, there is no prohibition on "slate" candidacy in the Cherokee Nation. There is also no prohibition on the purchase and use of "slate" campaign materials. Like joint campaign materials for Executive office, "slate" campaign materials serve to promote each candidate in part and the "slate" as a whole, so it makes logical sense that "slate" candidates might share the associated costs of said materials. However, a distinction arises when dealing with "slate" campaigns versus joint campaigns. "Slate" campaigns generally involve a mix of candidates who are seeking Executive office and candidates who are seeking Legislative office. These are separate and distinct branches of government and run on separate election cycles.³ The nature and duties of these separate branches are not such that they require the same close teamwork and coordination as those in a single branch. Thus, while it is possible for a "slate" of candidates to associate as such, it would be impossible for an entire "slate" to run as co-candidates in a joint campaign.

As noted above, the purchase of "slate" campaign materials would serve the primary function of promoting the purchaser's candidacy, but would also promote the candidacies of the other "slate" members. However, because "slate" candidacy is not so closely intertwined as that of joint candidacy, financial accounting must be approached differently. In this instance, it is clear that the purchase of "slate" campaign materials provides benefits to all candidates, irrespective of the elective office each seeks. As such, the purchase of "slate" campaign materials would have to be approached in one of two ways.

First, the purchasing candidate could be responsible for the full cost of the "slate" campaign materials and would reflect the expenditure in full as part of the purchaser's FDR. In this instance, the remaining "slate" members would have to report an evenly apportioned in-kind contribution from the purchaser for the benefit received from the "slate" campaign materials. The purchaser would have to be listed personally as the contributor, as only individual natural persons may be contributors in Cherokee Nation elections. The amount of the "slate" campaign materials apportioned to the other candidates made by a purchasing candidate would

² This Opinion does not address whether candidates for Legislative office could effectively run as a "ticket" or "team" or how any such joint campaign materials would have to be accounted for.

³ Tribal Council elections take place on a staggered basis, with approximately half of the seats coming up for election every two years. Executive office elections are on a fixed schedule, taking place every four years.

need to be made with personal funds and not from contributed campaign funds; otherwise, it would be in violation of 26 CNC § 44, which prohibits personal use of campaign funds. The purchasing candidate would be limited to \$5000 cash or in-kind contributions to the remaining "slate" candidates during the election period.

Alternatively, the costs of "slate" campaign materials could be apportioned equally between the candidates making up the "slate." When the costs are so allocated, no single candidate is making a "contribution" to the other. As such, each candidate would be responsible for paying their share of the total costs and reflecting the expenditures on his or her Financial Disclosure Report as appropriate.

It should be noted that these contribution/expense accounting methods are not mutually exclusive and could both be used in a single campaign. A single "slate" candidate could contribute up to \$5000 in cash or in-kind contributions to their other "slate" candidates during a single campaign and then the remaining joint campaign materials could be purchased utilizing an equal allocation of costs. The same reporting as noted above would be required to properly document this activity on the candidates' Financial Disclosure Reports.

Conclusion

It is therefore the Official Opinion of the Attorney General:

1.

That joint campaign expenses for the offices of Principal Chief and Deputy Chief do not constitute campaign contributions when (1) the parties have publicly declared themselves to be co-candidates and are running as a "ticket" or "team"; and (2) there is no suggestion of dishonesty.

2.

That "slate" campaign expenses constitute campaign contributions and must be properly accounted for by each individual candidate's Financial Disclosure Reports.

Respectfully Submitted by:

Robert Garcia
Robert Garcia
Assistant Attorney General

/s/ Todd Hembree
Todd Hembree
Attorney General
Cherokee Nation

Wednesday, March 22, 2023 4:00PM

[illegible]

CHEROKEE NATION ELECTION COMMISSION

 REGULAR MEETING

 ✓ SPECIAL MEETING

ELECTION COMMISSION PRESIDED BY: Rick Doherty

MEETING DATE: 3/22/23 at 4:00 PM at the CNEC Office

Commission Member: Present/Absent

Rick Doherty Present/Absent

Pamela Sellers Present/Absent

Shawna Calico Present/Absent

Randy Campbell Present/Absent

Elizabeth Ballew Present/Absent

Quorum Established: YES NO

CNEC Attorney: Harvey Chaffin ☒

CNEC Investigator: Nick Goodwin ☒

Staff Present: ☒ Marcus Fears, ☒ Connie Parnell, ☐ Kendal Bishop, ☐ Charlene Keys

Visitors:

Chad Hunter
