



STATE BOARD OF ELECTIONS

6400 Mail Service Center • Raleigh, North Carolina 27699-6400

GARY O. BARTLETT
Executive Director

MAILING ADDRESS:
P.O. BOX 27255
RALEIGH, NC 27611-7255

August 8, 2012

Mr. Van Braxton
1512 Surry Street
Kinston, North Carolina 28504

Re: Request for Advisory Opinion pursuant to N.C. Gen. Stat. § 163-278.23

Dear Mr. Braxton:

I am in receipt of your letter received July 23, 2012, in which you seek guidance as to whether you need to establish a legal expense fund pursuant to Article 22M of Chapter 163 of the North Carolina General Statutes. As provided in your letter and is evidenced by disclosure reports and other documents filed with our office, your candidate committee is closed and you are not a candidate for elective office. Individuals serving in or seeking elective office are required to organize a legal expense fund committee if they are going to be raising donations to fund an existing legal action or a potential legal action. Your letter indicates you desire to raise funds to "defray" some of your legal costs arising from a lawsuit that was filed in connection with your 2010 candidacy. Since you are not by definition an "elected officer", you are not required to establish a legal expense fund committee and therefore those donations raised are not subject to disclosure or limitations. However, if in the future you decide to seek elective office and continue raising donations for the purposes of a legal expense fund, you would be required to organize such a committee.

This opinion is based upon the information provided in your July 23, 2012 letter. If any information in that letter should change, you should consult with our office to ensure that this opinion would still be binding. Finally, this opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code. If you should have any questions, feel free to contact myself or Kim Strach with the Campaign Finance Division.

Sincerely,

Gary O. Bartlett
Gary O. Bartlett

cc: Julian Mann, Codifier of Rules

LOCATION: 506 NORTH HARRINGTON STREET • RALEIGH, NORTH CAROLINA 27603 • (919) 733-7173

Van Braxton
1512 Surry Street
Kinston, NC 28504

Mr. Gary Bartlett
Director SBOE
PO Box 27255
Raleigh, NC 27611

Received

JUL 23 2012

Campaign Finance

Dear Mr. Bartlett,

My name is Van Braxton. I served in the NC House of Representatives from 2007-2010. I sought re-election in 2010 but was defeated. During the 2010 campaign I was sued, along with the Democratic Party, by my opponent for defamation of character. The suit stemmed from a campaign flyer that the Democratic Party and I mailed. The suit was settled approximately six months ago. My opponent and I settled the suit with him paying \$17,200 in contempt charges and me agreeing to let him drop the charges. My defense was that the flyers were true and I still stand by that.

Since then, the information we gathered and other information gathered by authorities has brought indictments against this opponent. I now consider the case closed.

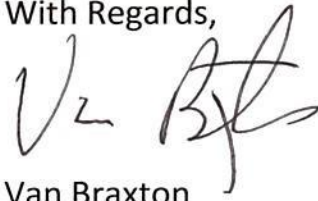
I have been out of the legislature for two years. I am not seeking re-election nor do I intend to seek re-election in the foreseeable future and probably never. I have depleted and closed my campaign account. There is nothing left of the campaign organization and I am personally in debt for legal fees.

My question to you and the reason for this letter is this: Since the events of the past few weeks concerning my former opponent are in the news and since many people in my area have supported my efforts, I am in the process of sending a letter asking for donations to help me defray some of my legal costs. Since I am not a legislator and have not been for two years and am not seeking re-election I wanted to make sure that I did not have to set up a legal defense fund for reporting any donations I might receive.

I called and spoke with an individual with the State Board of Elections and asked for an answer to this question. He suggested I make a request in writing and an

answer in writing would be sent to me. Thank you for taking the time to read and respond to my request.

With Regards,

A handwritten signature in black ink, appearing to read 'V. Braxton', written in a cursive style.

Van Braxton

Cc: Ms. Kim Strach
Deputy Director SBOE