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**RQ-0267-KP**

January 23, 2019

Honorable Ken Paxton  
Attorney General of Texas  
Office of the Attorney General  
Attn: Opinion Committee  
opinion.committee@oag.texas.gov

**FILE # ML-48490-19**  
**LD.# 48490**

**RE: Request for opinion regarding the use of forfeiture funds under Texas Code of Criminal Procedure art. 59.06 to purchase a refrigerator**

Dear Attorney General Paxton:

Article 59.06 of the Code of Criminal Procedure authorizes the use of forfeiture funds “for the benefit of the office of the attorney representing the state, to be used by the attorney solely for the official purposes of his office.” TEX. CODE CRIM. PROC. art. 59.06(c)(1). Further, an expenditure from an attorney’s forfeiture fund

is considered to be for an official purpose of an attorney’s office if the expenditure is made for an activity of an attorney or office of an attorney representing the state that relates to the preservation, enforcement, or administration of the laws of this state, including an expenditure made for:

- (1) equipment, including vehicles, computers, visual aid equipment for litigation, firearms, body armor, furniture, software, and uniforms;
- (2) supplies, including office supplies, legal library supplies and access fees, mobile phone and data account fees for employees, and Internet services;
- (3) prosecution and training-related travel expenses, including payment for hotel rooms, airfare, meals, rental of and fuel for a motor vehicle, and parking;
- (4) conferences and training expenses, including fees and materials;

- (5) investigative costs, including payments to informants and lab expenses;
- (6) crime prevention and treatment programs;
- (7) facility costs, including building purchase, lease payments, remodeling and renovating, maintenance, and utilities;
- (8) legal fees, including court costs, witness fees, and related costs, including travel and security, audit costs, and professional fees; and
- (9) state bar and legal association dues.

*Id.* art. 59.06(d-4).

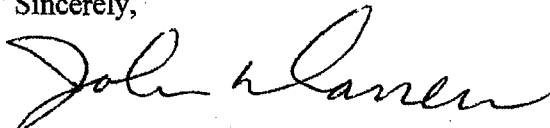
The non-exclusive list of expenditures listed in article 59.06(d-4) does not include a particular provision for “appliances.” Thus, this request for an opinion ultimately lies on whether a refrigerator is an expenditure used for the official purpose of the office. A refrigerator in an attorney’s office, however, arguably falls into more than one category of article 59.06(d-4): (1) a refrigerator is a type of furniture; (2) a refrigerator is akin to office supplies, in that it is used daily, and makes the access to food and beverages easier and more efficiently accessed; and finally, (3) a refrigerator can be used for the direct preservation of evidence in cases where temperature sensitive items, such as blood, need to be stored during litigation or investigation.

Further, the primary duty, and official purpose, of the attorney’s office is “to see that justice is done.” TEX. CODE CRIM. PROC. art. 2.01. Although the necessity of food preserved in a cold refrigerator until a lunch break may seem trivial compared to the overarching burden of seeing that justice is done, access to food is nevertheless a necessity for all people that work in any attorney’s office. This is similar to the way that a person needs a computer, stapler, chair, or bookcase in order to efficiently complete tasks related to the official purpose of the office.

The expenditure of forfeiture funds in order to purchase carpet has been found to be a “permissible use of an attorney’s forfeiture fund as remodeling and renovating facility costs to the extent that the expenditure relates to the official purposes of the attorney’s office.” Tex. Att’y Gen. Op. No. KP-00126 (2017). Although there was no specific line in article 59.06(d-4) specifying that “carpet” or “flooring” was appropriate, the opinion rightly focused on whether the expenditure relates to the official purpose of the attorney’s office.

Accordingly, the District Attorney for the 235<sup>th</sup> Judicial District Court requests an opinion on whether the expenditure of attorney forfeiture funds on a refrigerator may be a permissible expenditure, although there is no specific provision allowing for expenditures on “appliances,” when the expenditure on the appliance relates to the official purpose of the attorney’s office.

Sincerely,



John Warren  
District Attorney  
Cooke County, Texas