

ETHICAL PRACTICES BOARD

First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

Issued to:

Duane E. Schumacher, Jr.

Candidate for State Representative

P. O. Box 403

St. Cloud, MN 55302-0403

RE: Campaign Finance

ADVISORY OPINION #154

SUMMARY

154. Production and broadcasting of a cable public access program by a legislative candidate without compensation or cost to the candidate will not result in an in-kind contribution to the candidate under Minn. Stat. § 10A.01, subds. 5, 7, and 10. The Board expresses no opinion as to the application of any law or regulation administered by the Federal Communications Commission act or any other laws or regulations to a legislative candidate's participation in or the content of a cable public access program, because these issues, if any, are outside the Board's jurisdiction.

FACTS

As a candidate for state representative, you state that 1) as producer and host of cable public access program for over three years you have aired many informational forums including co-producing political programming with TCI cable company; 2) TCI cable company is required to offer public access programming to all individuals and does so at no cost to the producers of public access programs; 3) public access programming is not for profit and is not a commercial endeavor by the producers nor is it for TCI cable company; 4) the Federal Communications Commission (FCC) regulates the cable industry including public access programming and prohibits censorship of programming of any nature, in part or whole, including political programming.

QUESTION ONE

Is a cable public access program required to be disclosed by a legislative candidate as a contribution? And, if so, as an in-kind contribution, or is it not recognized as a contribution per definition?

OPINION

No. Based on a review of the information submitted, the Board concludes that production and broadcasting of the proposed continuation of the cable public access program will not result in an in-kind contribution to the candidate under Minn. Stat. § 10A.01, subs. 5, 7, and 10.

The Board expresses no opinion as to the application of any law or regulation administered by the Federal Communications Commission or any other laws or regulations to a legislative candidate's participation in or the content of a cable public access, program because these issues, if any, are outside the Board's jurisdiction.

QUESTION TWO

Can I continue my public access program, "Neighbor to Neighbor" as governed by the Federal Communications Commission (FCC)?

OPINION

As noted above, the Board expresses no opinion as to the application of any law or regulation administered by the Federal Communications Commission or any other laws or regulations to a legislative candidate's participation in or the content of a cable public access program, because these issues, if any, are outside the Board's jurisdiction.

Issued: 8-12-94



John L. Holahan, Jr., Chair
Ethical Practices Board

PERTINENT STATUTES

Minn. Stat. § 10A.01 DEFINITIONS provides:

Subd. 5. **Candidate.** "Candidate" means an individual who seeks nomination or election to any statewide or legislative office for which reporting is not required under federal laws. The term candidate shall also include an individual who seeks nomination or election to supreme court, court of appeals, or district court judgeships of the state. An individual shall be deemed to seek nomination or election if the individual has taken the action necessary under the law of the state of Minnesota to qualify for nomination or election, has received contributions or made

expenditures in excess of \$100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.24.

Subd. 7. "Contribution" means a transfer of funds or a donation in kind. . . . Contribution does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate. . . or the publishing or broadcasting of news items or editorial comments by the news media.

Subd. 7b. "Donation in kind" means anything of value other than money or negotiable instruments given by an individual or association to a political committee, political fund, or principal campaign committee for the purpose of influencing the nomination or election of a candidate. . . .

Subd. 10. **Campaign expenditure.** "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate. . . . Expenditure does not include:

. . . .
(d) Services provided without compensation by an individual volunteering personal time on behalf of a candidate. . . or

(e) The publishing or broadcasting of news items or editorial comments by the news media.

