

Campaign Finance & Public Disclosure Board

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

THIS ADVISORY OPINION IS PUBLIC DATA
pursuant to a consent for release of information signed by the requester

Issued to: Robert Maline, Treasurer
Jesse Ventura for Governor Volunteer Committee
7056 Aberdeen Curve
Woodbury, MN 55125

RE: Campaign fundraising activities

ADVISORY OPINION 293

SUMMARY

Fundraising from the sale of merchandise that will be custom made, using a corporate manufacturer/distributor which regularly provides manufacturing and order-filling services to its clients, does not result in bundling of contributions or in a contribution from the manufacturer/distributor to the requester if fair market value is paid for those services. Fundraising from the sale of merchandise pursuant to a contract with retail outlets does not result in bundling of contributions and/or in a contribution from the retail entity if the retailer is paid the fair market value for any services provided.

FACTS

As the treasurer of a candidate's principal campaign committee, you ask the Campaign Finance and Public Disclosure Board (the "Board") for an advisory opinion based on the following facts presented in your request letter or conveyed to Board staff:

1. The principal campaign committee you represent (the "Committee") plans to contract for the manufacture of products bearing the candidate's image and to sell these products as a means of fundraising.
2. The Committee intends to have the products manufactured by companies that regularly engage in custom manufacturing. The Committee will pay fair market value for the manufacturing services and will take ownership of the products after they have been manufactured.
3. The Committee is considering having clothing items manufactured by a company that also provides an order-filling service for its clients, commonly known as "pick and pack". Under this service, the company receives orders from buyers and conveys buyer information and the payment, or payment information, to the Committee. The Committee processes cash or credit card payments into its own account and then authorizes the distributor to pick the goods, pack them, and ship the order to the purchaser. The Committee will pay for these services according to the distributor's established fee

practices.

4. Sale of items the Committee offers will be to individuals only. All proceeds from the sale of the products would be reported as contributions from the individual purchasers as of the date the purchase is paid for. The Committee recognizes that limits and reporting requirements applicable to individual contributions apply to purchases made under your plan. The Committee also recognizes that all costs associated with the manufacture and distribution of this fundraising merchandise must be reported as campaign expenditures.
5. The Committee is also contemplating the manufacture of beer. The Committee recognizes that specific federal and state laws apply to the manufacture and distribution of beer and does not ask the Board's opinion regarding those issues.
6. The Committee contemplates consigning beer or clothing to liquor stores under a contract by which the store would act as the Committee's agent for the purpose of making the fundraiser sales; that is, collecting individual contributions. For sales over \$20, the retailer will also obtain the individual's name and telephone number (or address and employment information) and forward them to the Committee. The liquor stores would be paid for their participation in this process.
7. Clothing may also be consigned to clothing stores using the same process that is used in liquor stores.
8. It is anticipated that all of the distributors involved will be corporations.

ISSUE ONE

Does the manufacture and sale of fundraising merchandise using the services of a "pick and pack" distributor, which ordinarily makes these services available to the public, result in a contribution to the Committee from the manufacturer/distributor or in the bundling of contributions?

OPINION

As long as the manufacturer/distributor is compensated at fair market value, the transactions are a purchase of services by the Committee, not a contribution from the manufacturer/distributor to the Committee. In the case of a manufacturer/distributor which makes its services available to the public, the fair market value of the services provided is the price the company's other clients would pay for the same services.

The described transactions do not constitute bundling of contributions. The pick and pack company is the Committee's contracted agent for the receipt of payments for merchandise sold. Forwarding the payment documents or payment information under contractual terms is not the delivery of contributions contemplated in Minn. Stat. § 10A.27, subd. 1.

ISSUE TWO

Does the consignment of manufactured items to a retail business and the subsequent sale by the business result in a contribution to the Committee from the business entity or in the bundling of contributions?

OPINION

No contribution from a business entity results if the retail business entities are paid fair market value for the services they provide. The retailer must base the compensation it demands on purely business factors and not on any political considerations.

The Committee and the retailer should recognize that the retailer will be required to obtain additional information from an individual who purchases more than \$20 worth of goods. At a minimum, the retailer would be required to obtain the purchaser's name and telephone number so that the Committee could later obtain the purchaser's address. Minn. Stat. § 10A.13, subd. 1(b). If a purchase is over \$100, the Committee also would be required to obtain employment information. Minn. Stat. §10A.20, subd. 3.

The Board notes that there is a danger in having the retailer obtain only the name and telephone number of an individual who purchases more than \$20 worth of merchandise. If the Committee is later unsuccessful in obtaining the donor's complete address, including zip code, the contribution is considered an anonymous contribution and must be sent to the Board for deposit in the General Account of the State Elections Fund. If employment information cannot be obtained from purchasers of over \$100 in merchandise, the Committee will be in violation of reporting requirements for that contribution.

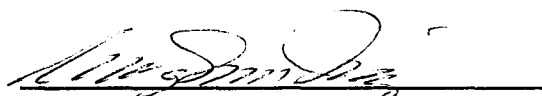
The Board recommends that the Committee inform purchasers of more than \$20 worth of merchandise that their purchase is a contribution to the committee. Although this notice is not required by Minnesota Statutes Chapter 10A, it would be a natural disclosure to make when obtaining the purchaser's name and address or contact information. This notice would allow a potential purchaser to make an informed decision as to whether or not to make the purchase, understanding that it constitutes a political contribution.

The described transactions do not constitute bundling of contributions for the reasons stated in Issue One of this opinion.

CAVEAT

In the fact situation presented, the Committee mentions how it plans to handle sales tax, income tax, and the issuance of political contribution receipts. The Committee also recognizes that the sale of beer is governed by statutes outside the scope of Minnesota Statutes Chapter 10A. The request presents potential issues that may be within the jurisdiction of the Minnesota Department of Revenue, federal or local taxing authorities, and agencies involved in the regulation of alcoholic beverages. The Board expresses no opinion on whether the Committee's plans for handling those matters would comply with relevant requirements.

Issued: July 24, 1998


Carolyn D. Rodriguez, Chair
Campaign Finance and Public Disclosure Board

CITED STATUTES

10A.13 ACCOUNTS WHICH MUST BE KEPT.

Subdivision 1. The treasurer of a political committee or political fund shall keep an account of:

.....
(b) The name and address of each source of a transfer made to the political committee or political fund in excess of \$20, together with the date and amount of each;
.....

10A.20 CAMPAIGN REPORTS.

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Subd. 3. **Contents of report.** Each report under this section shall disclose:

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(b) The name, address and employer, or occupation if self-employed, of each individual, political committee or political fund who within the year has made one or more transfers or donations in kind to the political committee or political fund, including the purchase of tickets for all fund raising efforts, which in aggregate exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each transfer or donation in kind, and the aggregate amount of transfers and donations in kind within the year from each source so disclosed.
.....

10A.27 ADDITIONAL LIMITATIONS.

Subdivision 1. **Contribution limits.** Except as provided in subdivision 2, no candidate shall permit the candidate's principal campaign committee to accept aggregate contributions made or delivered by any individual, political committee, or political fund in excess of the following:

(a) to candidates for governor and lieutenant governor running together, \$2,000 in an election year for the office sought and \$500 in other years;
.....

(1) delivery of contributions collected by a member of the candidate's principal campaign committee, such as a block worker or a volunteer who hosts a fund raising event, to the committee's treasurer; and