

State of Minnesota
Campaign Finance & Public Disclosure Board
First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

THE FOLLOWING PUBLICATION DOES NOT IDENTIFY
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NONPUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b)

RE: Fundraising activities of political committee

ADVISORY OPINION 310

SUMMARY

A political committee may solicit its contributors to make contributions directly to candidates. Contributions collected by the political committee for delivery to candidates are subject to limits on contributions delivered by a political committee. A political committee may provide address lists or addressed envelopes to facilitate its contributors in making contributions directly to candidates. A political committee that has the right to direct its members to make contributions to a list of candidates is subject to the contribution attribution provisions of Minn. Stat. § 10A.15, subd. 3b.

FACTS

As the attorney for an association, you ask the Campaign Finance and Public Disclosure Board (Board) for an advisory opinion based on the following facts which were included in your request for an advisory opinion or verbally conveyed to Board staff:

1. The association you represent is a political committee (the Committee) registered with the Board.
2. The Committee presently raises money through contributions, uses a small amount of its funds for administrative expenses, and donates the rest to candidates it supports.
3. The Committee is considering ways that it might change its fundraising strategy. In doing so, the Committee is concerned that it stay within the letter and spirit of the law.
4. The committee is considering reorganizing itself as a membership organization. If it did so, individuals and other political committees or political funds could become members. A small membership fee would be charged which would be used to pay the Committee's

administrative costs. As a condition of membership, members would be required to make election cycle contributions of at least specified minimum amounts to candidates on a list prepared by the Committee. Individual donors would decide the timing, amounts, and recipients of their contributions. The Committee's requirements would be met as long as a donor's contributions to listed candidates during the election cycle reached the specified minimum.

5. All of the committee's activities are done independently of candidates, their representatives and their principal campaign committees. Each committee action is done without authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of that candidate, the candidate's principal campaign committee or the candidate's agent.
6. The solicitations contemplated will not include statements advocating the election or defeat of a candidate that might constitute independent expenditures.

The committee has presented several fundraising scenarios that it is considering. Each has been restated as an Issue in the sections below.

ISSUE ONE

May the Committee communicate with its contributors and ask them to make contributions to a list of candidates provided by the Committee?

OPINION

Yes, the Committee may communicate with its members and ask them to make contributions to a list of candidates provided by the Committee. Costs of such a solicitation are reported as general committee disbursements since the solicitation is made without such candidate or principal campaign committee involvement as would make the transaction an approved expenditure under Minn. Stat. § 10A.01, subd. 10a and does not include material that would make it an independent expenditure under Minn. Stat. § 10A.01, subd. 10b.

The solicitation described may require the Committee to file a solicitor's report with the Board under Minn. Stat. § 10A.20, subd. 14, which provides as follows:

"[A] . . . political committee . . . that directly solicits and causes others to make contributions to candidates or a caucus of the members of a political party in a house of the legislature, that aggregate more than \$5,000 in a calendar year must file with the board a report disclosing the amount of each contribution, the names of the contributors, and to whom the contributions were given. The report for each calendar year must be filed with the board by January 31 of the following year. The report must cover the accumulated contributions made or received during the calendar year. "

ISSUE TWO

In the event that the solicitation described in Issue One is permitted, may the checks issued in response to the solicitation be sent to the Committee for distribution to the designated candidates?

OPINION

Collection of donor checks by a political committee for delivery to designated candidates (often referred to as "bundling") is not prohibited. However, the bundled contributions are subject to the provisions of Minn. Stat. § 10A.27, subd. 1, which provides that the treasurer of the recipient principal campaign committee may not accept contributions "made or delivered by any . . . political committee " in excess of the contribution limits applicable to the particular office.

Thus, the aggregate amount the Committee may contribute directly and deliver on behalf of other donors is subject to the single contribution limit set forth in Minn. Stat. § 10A.27, subd. 1, applicable to the candidate's office.

ISSUE THREE

If the solicitation described in Issue One is permitted, may the Committee ask contributors to mail the contributions directly to the specified candidates?

OPINION

Yes, the Committee may ask contributors to mail the contributions directly to the specified candidates. This solicitation method will not trigger the bundling limits of Minn. Stat. § 10A.27, subd. 1.

ISSUE FOUR

In the solicitation described in Issue One, may the Committee provide addresses or addressed envelopes to assist its contributors in making direct contributions to the candidates supported by the Committee?

OPINION

Yes, the Committee may provide addresses or addressed envelopes to assist its contributors in making additional contributions to the candidates supported by the Committee.

Costs of materials, preparation, and mailing of address lists or envelopes are reported as general committee disbursements since the solicitation is made without such candidate or committee involvement as would make the transaction an approved expenditure under Minn. Stat. § 10A.01, subd. 10a and does not include material that would make it an independent expenditure under Minn. Stat. § 10A.01, subd. 10b.

ISSUE FIVE

May the Committee reorganize itself as a membership organization in which a requirement of membership is that each member make contributions in a specified minimum aggregate amount to candidates on a list provided by the Committee? If so, may the Committee require its members to report to the Committee the contributions they make to meet their membership obligation?

OPINION

Organization of a political committee in which members are required to make contributions to candidates specified by the political committee is not prohibited by Minnesota Statutes Chapter 10A. However, the political committee would be subject to the attribution provisions of Minn. Stat. § 10A.15, subd. 3b.

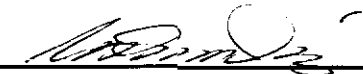
Minn. Stat. § 10A.15, subd. 3b, applies to contributions that are directed to a principal campaign committee by a political committee. Directed contributions are attributable to the political committee that controls the contributions. Thus, the aggregate of such contributions to a candidate's principal campaign committee is subject to the contribution limit applicable political committee that controls the contributions.

The proposed membership structure would allow the Committee to provide a list of candidates to members, who would be required to make contributions totaling at least a specified minimum amount to candidates on the list.

The Committee's control of the list and the specified minimum amounts is sufficient to trigger application of the attribution rules of Minn. Stat. § 10A.15, subd. 3b, which is applicable when a political committee orders, commands, controls, or instructs its members to make certain contributions. The fact that an individual donor can determine the timing, amount, and recipient of individual contributions (subject to the restriction that the recipient must be on the list), is not sufficient to remove the plan from the scope of the statute.

Under the proposed membership plan the Committee is required to obtain contribution information from its members so that it may notify principal campaign committee treasurers of contributions that are attributable to the Committee pursuant to Minn. Stat. § 10A.15, subd. 3b.

Issued: 3-19-99



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

CITED STATUTES

Minnesota Statutes §10A.01 Definitions

Subd. 10a. **Approved expenditure.** "Approved expenditure" means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of that candidate, which expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of that candidate, the candidate's principal campaign committee or the candidate's agent. An approved expenditure is a contribution to that candidate.

Subd. 10b. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, which expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent.

§ 10A.15 Contributions

Subd. 3b. **Attributable contributions.** Contributions made to a candidate or principal campaign committee that are directed to that candidate or principal campaign committee by a political fund or committee must be reported as attributable to the political fund or committee and count toward the contribution limits of that fund or committee specified in section 10A.27, if the political fund or committee was organized or is operated primarily to direct contributions other than from its own funds to one or more candidates or principal campaign committees. The treasurer of the political fund or committee shall advise the candidate or the candidate's principal campaign committee if the contribution or contributions are not from the funds of the political fund or the political committee and the original source of the funds. As used in this subdivision, the term "direct" includes, but is not limited to, order, command, control, or instruct. A violation of this subdivision is a violation of section 10A.29.

§ 10A.20 Campaign Reports

Subd. 14. **Reports by solicitors.** An individual, association, political committee, or political fund, other than a candidate or the members of a candidate's principal campaign committee, that directly solicits and causes others to make contributions to candidates or a caucus of the members of a political party in a house of the legislature, that aggregate more than \$5,000 in a calendar year must file with the board a report disclosing the amount of each contribution, the names of the contributors, and to whom the contributions were given. The report for each calendar year must be filed with the board by January 31 of the following year. The report must cover the accumulated contributions made or received during the calendar year.