

State of Minnesota
Campaign Finance and Public Disclosure Board
190 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 REQUESTOR**

Issued to: Bart Ward
Treasurer, James Abler Volunteer Committee
2408 4th Avenue North
Anoka, MN 55303

RE: Use of Campaign Funds for Legal Expenses

ADVISORY OPINION # 328

SUMMARY

Under certain circumstances funds from a principal campaign committee may be used to pay for legal services if the services relate to the candidate's chances of election, and the candidate does not personally benefit from the services.

FACTS

You ask the Campaign Finance and Public Disclosure Board (Board) for an advisory opinion concerning issues related to the following facts:

1. You are the treasurer of a principal campaign committee registered with the Board. The candidate of your committee was elected to state office.
2. The candidate recently responded to allegations that related to actions made by the candidate during the course of serving in office. The allegations had the potential to affect the future service of the candidate as an elected official and the public perception of the integrity of the candidate.
3. The official has incurred legal expenses while responding to the allegations.
4. You ask if you may pay the legal fees with funds from the principal campaign committee.

ISSUE ONE

May the described legal expenses be paid for with funds from the principal campaign committee of the elected official?

OPINION

Minn. Stat. 10A.01, subd. 26, provides a list of valid noncampaign disbursements that can be made with funds from a principal campaign committee. In particular the statute provides that campaign funds may be used for "payment for accounting and legal services" In the Board's view there are limitations to this provision, for instance the funds of a principal campaign committee could not be used for legal services of a candidate if the services were for the personal benefit of the candidate. Additionally, in reviewing legal services claimed as a noncampaign expenditure, the Board looks for a relationship between the services provided and either the operational needs of the principal campaign committee, or the election of the candidate.

The legal costs described in this request did not benefit the candidate as an individual. The allegations made relate directly to actions taken by the candidate while serving as an elected official. If the candidate had not run for, and been elected to office, there would have been no need for the described legal services and their associated cost. The benefit of the legal services was to defend the candidate's role as an elected official.

The types of allegations found in this request do not occur in a vacuum. The media and public follow the issue, and are aware of the outcome. It seems clear that legal services used to defend a candidate's actions while serving in office affect not only the ability of the candidate to function as an elected official, but also directly relates to the viability of the candidates reelection aspirations. It is the Board's opinion that the legal costs described in this request do relate to the election of the candidate, and therefore the costs may be paid for with principal campaign funds. The costs should be identified as a noncampaign disbursement when reported to the Board.

Issued: 6-26-01



Wil Fluegel, Chair
Campaign Finance and Public Disclosure Board

CITED STATUTES

MINNESOTA STATUTES 10A.01 DEFINITIONS.

Subd. 26. Noncampaign disbursement. "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

- (1) payment for accounting and legal services;
- (2) return of a contribution to the source;
- (3) repayment of a loan made to the principal campaign committee by that committee;
- (4) return of a public subsidy;
- (5) payment for food, beverages, entertainment, and facility rental for a fundraising event;
- (6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;
- (7) payment for food and beverages provided to campaign volunteers while they are engaged in campaign activities;
- (8) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;
- (9) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;
- (10) costs of child care for the candidate's children when campaigning;
- (11) fees paid to attend a campaign school;
- (12) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;
- (13) interest on loans paid by a principal campaign committee on outstanding loans;
- (14) filing fees;
- (15) post-general election thank-you notes or advertisements in the news media;
- (16) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;
- (17) contributions to a party unit; and
- (18) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question.