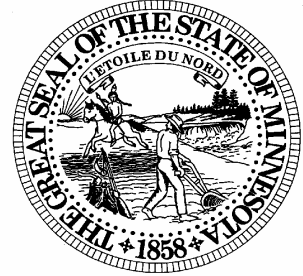


Minnesota

Campaign Finance and Public Disclosure Board



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

RE: Segregated Accounts; Registration and Reporting

ADVISORY OPINION 375

SUMMARY

The obligation of a political committee to register and report contributions and expenditures under Minnesota Statutes, section 10A.20, is not limited or otherwise altered by the use of a segregated account.

FACTS

As Counsel for a federally registered political action committee (the PAC) you request an advisory opinion from the Campaign Finance and Public Disclosure Board (the Board) to clarify its reporting obligations based on the following facts.

1. Under federal law, the PAC may use segregated accounts for receipts and disbursements for particular purposes.
2. The PAC is a political committee as defined by Minnesota Statutes, section 10A.01, subdivision 27.
3. The PAC intends to make contributions to candidates for Minnesota state office.
4. The PAC receives contributions only from individuals and other federally registered political committees.
5. The PAC cannot accept contributions from corporations
6. The PAC does not use corporate or labor organization funds for its administrative or startup costs.

7. The PAC wishes to establish a segregated account that would include only contributions of no more than \$5000 from individuals.
8. The PAC wishes to register the segregated account with the Board as a political committee and report its Minnesota activity from the segregated account.

The requestor notes the contents of Advisory Opinion 371, but believes that their situation is distinct or distinguishable from that addressed by opinions 2 and 3 of Advisory Opinion 371.

ISSUE ONE

May a segregated account established by the PAC be registered and report as a Minnesota political committee?

OPINION ONE

No. Under Minnesota Statutes, section 10A.01, subdivision 27, a “political committee” is defined as an “association” having described purposes. Section 10A.01, subdivision 6 defines an “association” as “two or more persons...acting in concert...” Although useful under federal law, a segregated account is an accounting procedure and not an association or political committee under Minnesota law. Such an account may not itself register and report as a political committee.

ISSUE TWO

Does the use of a segregated account limit or otherwise alter the reporting requirements of a political committee under Minnesota Statutes, section 10A.20 and the other provisions of chapter 10A?

OPINION TWO

No. Unlike federal law, Minnesota law does not recognize a segregated account as an entity or procedure with any special legal status. The use of such an account does not limit or otherwise alter the reporting requirements under Minnesota Statutes, section 10A.20. If the PAC makes disbursements to Minnesota candidates, the PAC must report all its contributions and expenditures as required by Minnesota Statutes, section 10A.20, regardless of the accounting procedures that it adopts.

ISSUE THREE

Does the stated fact that none of the PAC's administrative costs are discharged from corporate contributions avoid the prohibition on corporate contributions provided by Minnesota Statutes section 211B.15, subdivision 2 and discussed in Advisory Opinion 371, Opinions two and three?

OPINION THREE

As pointed out in Advisory Opinion 371, the Board does not have authority to interpret Minnesota Statutes, section 211B.15, except as the section relates to the requirements of Minnesota Statutes, chapter 10A. The use of a segregated account does not affect the reporting obligations of the PAC. Counsel for the PAC should consider that if direct or indirect corporate contributions are received by a political committee, they may not be contributed to Minnesota candidates or used to discharge administrative costs, without raising the question of the application of section 211B.15, regardless of how the contributions are reported under section 10A.20 or accounted for internally by the PAC.

Issued January 11, 2006



Bob Milbert, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes and Administrative Rules

10A.01 Definitions.

Subd. 6. **Association.** "Association" means a group of two or more persons, who are not all members of an immediate family, acting in concert.

Subd. 27. **Political committee.** "Political committee" means an association whose major purpose is to influence the nomination or election of a candidate or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

10A.20 Campaign reports.

Subdivision 1. **First filing; duration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must begin to file the reports required by this section in the first year it receives contributions or makes expenditures in excess of \$100 and must continue to file until the committee, fund, or party unit is terminated.

Subd. 1a. **If treasurer position is vacant.** If the position of treasurer of a principal campaign committee, political committee, political fund, or party unit is vacant, the candidate, chair of a political committee or party unit, or association officer of a political fund is responsible for filing reports required by this section.

Subd. 2. **Time for filing.** (a) The reports must be filed with the board on or before January 31 of each year and additional reports must be filed as required and in accordance with paragraphs (b) and (c).

(b) In each year in which the name of the candidate is on the ballot, the report of the principal campaign committee must be filed 15 days before a primary and ten days before a general election, seven days before a special primary and a special election, and ten days after a special election cycle.

(c) In each general election year, a political committee, political fund, or party unit must file reports 15 days before a primary and ten days before a general election.

Subd. 3. **Contents of report.** (a) The report must disclose the amount of liquid assets on hand at the beginning of the reporting period.

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value.

An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

- (c) The report must disclose the sum of contributions to the reporting entity during the reporting period.
- (d) The report must disclose each loan made or received by the reporting entity within the year in aggregate in excess of \$100, continuously reported until repaid or forgiven, together with the name, address, occupation, and principal place of business, if any, of the lender and any endorser and the date and amount of the loan. If a loan made to the principal campaign committee of a candidate is forgiven or is repaid by an entity other than that principal campaign committee, it must be reported as a contribution for the year in which the loan was made.
- (e) The report must disclose each receipt over \$100 during the reporting period not otherwise listed under paragraphs (b) to (d).
- (f) The report must disclose the sum of all receipts of the reporting entity during the reporting period.
- (g) The report must disclose the name and address of each individual or association to whom aggregate expenditures, including approved expenditures, have been made by or on behalf of the reporting entity within the year in excess of \$100, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office must allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.
- (h) The report must disclose the sum of all expenditures made by or on behalf of the reporting entity during the reporting period.
- (i) The report must disclose the amount and nature of an advance of credit incurred by the reporting entity, continuously reported until paid or forgiven. If an advance of credit incurred by the principal campaign committee of a candidate is forgiven by the creditor or paid by an entity other than that principal campaign committee, it must be reported as a donation in kind for the year in which the advance of credit was made.

- (j) The report must disclose the name and address of each political committee, political fund, principal campaign committee, or party unit to which contributions have been made that aggregate in excess of \$100 within the year and the amount and date of each contribution.
- (k) The report must disclose the sum of all contributions made by the reporting entity during the reporting period.
- (l) The report must disclose the name and address of each individual or association to whom noncampaign disbursements have been made that aggregate in excess of \$100 within the year by or on behalf of the reporting entity and the amount, date, and purpose of each noncampaign disbursement.
- (m) The report must disclose the sum of all noncampaign disbursements made within the year by or on behalf of the reporting entity.
- (n) The report must disclose the name and address of a nonprofit corporation that provides administrative assistance to a political committee or political fund as authorized by section 211B.15, subdivision 17, the type of administrative assistance provided, and the aggregate fair market value of each type of assistance provided to the political committee or political fund during the reporting period.

Subd. 3a. Repealed by amendment, 1999 c 220 s 23

Subd. 4. **Period of report.** A report must cover the period from the last day covered by the previous report to seven days before the filing date, except that the report due on January 31 must cover the period from the last day covered by the previous report to December 31.

Subd. 6a. **Statement of independence.** An individual, political committee, political fund, or party unit filing a report or statement disclosing an independent expenditure under subdivision 3 or 6 must file with the report a sworn statement that the disclosed expenditures were not made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of any candidate or any candidate's principal campaign committee or agent.