

Advisory Opinion 86

STATE OF MINNESOTA
STATE ETHICAL PRACTICES BOARD
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Approved by the Ethical Practices Board January 12, 1984

Issued to:
Steven Zupke, Administrator
Minnesota Trial Lawyers Political Action
Committee 906 Midwest Plaza East
Minneapolis, MN 55402

Re: Contribution Plan

ADVISORY OPINION #86

Summary

#86. A reverse checkoff system may be used by a membership association to increase the number of contributors to the association's political fund if:

1. a member can checkoff on the dues statement to indicate that the member does not agree to make any contribution to the association's political fund; and
2. a member is notified of protection from economic reprisals under Minn. Stat. Ch. 10A; and
3. dues paid from corporate funds are separated from dues paid by noncorporate funds.

Facts

You are the administrator of Minnesota Trial Lawyers Political Action committee (TRIAL-PAC), the registered political fund of Minnesota Trial Lawyers Association (MTLA), a nonprofit corporation. In accordance with the Minnesota Supreme Court's opinion in MACI v. Foley 316 N.W. 2d 524 (Minn. 1982), MTLA has chosen to create this political fund. A political fund may receive financial support from membership dues under Minn. Stat. §10A.12, subd. 5.

In an effort to increase the number of contributors to TRIAL-PAC within its membership, MTLA is considering the following procedures:

1. MTLA would provide a reverse checkoff system for TRIAL-

PAC contributions on MTLA's annual membership dues.

2. Under this system the amount of dues paid by each member would remain the same, however a predetermined portion of each member's dues would be directed to TRIAL-PAC unless the member declines.

3. MTLA would establish a separate trust account for the purpose of screening all membership payments to ensure that no corporate money enters the political fund. Members whose dues are paid by employer-corporations would be asked to enclose a personal check for TRIAL-PAC, unless they exercise their option and decline participation in the political fund.

You ask the Board to determine whether the reverse checkoff system which MTLA is considering is permitted under Minn. Stat. Ch. 10A.

OPINION

Since Minn. Stat. Ch. 10A does not preclude the deposit of members' dues in an association's political fund, Minnesota Trial Lawyers Association may use a dues checkoff plan on membership dues to increase the number of contributors to its political fund.

However, MTLA's reverse checkoff plan must:

1. offer each member the opportunity to decide whether a predetermined amount of the member's annual dues will be directed to MTLA's political fund, TRIAL-PAC; and

2. provide notice to each member that the member is protected against economic reprisals under Minn. Stat. §10A.20, subd. 11, which provides, in part

"No person or association shall engage in economic reprisals or threaten loss of employment or physical coercion against any person or association because of that person's or association's political contributions or political activity. . . ."; and

3. separate membership dues paid by corporations from membership dues which are paid by individuals from noncorporate funds.

Dated: 2/2/1984

William W. McCutcheon,
Chair