

ETHICAL PRACTICES 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: Campaign expenditure limit
Campaign expenditures**

ADVISORY OPINION # 228

SUMMARY

A candidate who has exceeded the applicable calendar year campaign expenditure limit for a time during the year, but who has through legal means reduced total expenditures to an amount below the limit by the end of the year is not in violation of Minn. Stat. § 10A.25, subs. 2 and 6. A candidate who purchases a computer with campaign funds must report the entire purchase price as a campaign expenditure.

FACTS

As a candidate with a registered principal campaign committee, you request an advisory opinion from the Ethical Practices Board based on the following facts provided in your request or conveyed by you to Board staff:

1. During calendar year 1995 your principal campaign committee purchased a computer on the assumption that the purchase would be reported as a noncampaign disbursement.
2. Eventually, you came to the conclusion that it would be appropriate to treat the purchase of the computer as a campaign expenditure. However, such treatment would put your committee's 1995 expenditures \$1,638.30 over the \$4,316.00 campaign expenditure limit for the year.
3. To remedy the situation, you rescinded the purchase and deposited the purchase price back into your campaign fund prior to the end of 1995.

4. You ask the Board whether there is anything further you should do to avoid violation of the 1995 campaign expenditure limits. You also ask whether you may purchase a computer in 1996 out of campaign funds.

ISSUE ONE

Based on the facts as stated, is your committee in violation of Minn. Stat. § 10A.25, subds. 2 and 6 which limit campaign expenditures? If so, is there anything further you may do to correct the violation?

OPINION

Your committee is not in violation of the 1995 campaign expenditure limit as a result of the computer purchase you describe. However, you will be required to report any applicable donation in kind for use of the computer, which may or may not put your committee's expenditures over the applicable limit.

The campaign expenditure limit is an aggregate annual limit. If a campaign committee's expenditures at the end of a year exceed the limit, a violation exists. However, the level of expenditures during the year is not examined on a continuous basis. A committee which recognizes that it is over the limit and is legally able to take steps to bring campaign expenditures within the limit before the end of the year, by such means as returning goods purchased, is not considered to be in violation of the statute.

The temporary excess spending condition you describe, which was cured prior to the end of the calendar year, does not result in a violation of the Minn. Stat. § 10A.25.

However, the fact that you received the full computer purchase price back indicates that you may have had some use of the computer without charge for a period of time. The fair market value of any use of the computer during the period you had it is a donation in kind to your committee by the seller of the computer pursuant to Minn. Stat. § 10A.01, subd. 7b, and Minn. Stat. § 10A.20, subd. 3(b). This donation is a campaign expenditure in the period in which it was given pursuant to Minn. Stat. § 10A.20, subd. 3(b), and must be reported if it exceeds \$20.00. Depending on the value of use of the computer for this period, your committee may still be in violation of the spending limits for 1995.

Because 1995 is over, there are no further steps you can take to remedy any possible spending limit violation that may have occurred in that year.

ISSUE TWO

May you purchase a computer in 1996 with campaign funds?

OPINION

Minnesota Statutes Chap. 10A does not preclude the purchase of a computer with campaign funds. Minnesota Statutes Chap. 211B, which is not under the jurisdiction of the Board governs the purposes for which campaign funds may be used.

If you do purchase a computer with campaign funds, the entire purchase price should be reported as a campaign expenditure in the year in which the purchase is made or the obligation to pay for the goods is incurred.

Issued: _____

1/26/96



Douglas H. Sillers, Chair
Ethical Practices Board

CITED STATUTES

10A.25 LIMITS ON CAMPAIGN EXPENDITURES.

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Subd. 2. (a) In a year in which an election is held for an office sought by a candidate, no expenditures shall be made by the principal campaign committee of that candidate, nor any approved expenditures made on behalf of that candidate which expenditures and approved expenditures result in an aggregate amount in excess of the following:

....

(5) for state representative, \$20,335.

....

Subd. 6. In any year before an election year for the office held or sought, the aggregate amount of expenditures by and approved expenditures on behalf of a candidate for or holder of that office shall not exceed 20 percent of the expenditure limit set forth in subdivision 2.

10A.01 DEFINITIONS.

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Subd. 7b. "Donation in kind" means anything of value other than money or negotiable instruments given by an individual or association to a political committee, political fund, or principal campaign committee for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question. Donation in kind includes an approved expenditure.

10A.20 CAMPAIGN REPORTS.

Subd. 3. . . .

(b)

A donation in kind shall be disclosed at its fair market value. An approved expenditure is 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 shall be listed in alphabetical order;