

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: Sale of goods by individual to party unit

ADVISORY OPINION # 270

SUMMARY

A sale of a product by an individual to a party unit for less than full retail value results in a donation in kind by the individual to the party unit in the amount which is the difference between the sale price and the full retail value.

FACTS

You ask the Ethical Practices Board ("Board") for an advisory opinion based on the following facts:

1. You have a product that you developed and sell.
2. You would like to sell this product to a party unit at a price which is less than its full retail value.
3. You are an incumbent legislator with a principal campaign committee registered with the Board.

ISSUES

May you sell your product to a party unit at less than full retail value price? Does your status as a legislator affect the application of Chapter 10A to the sale of this product?

OPINION

Chapter 10A does not prohibit an individual from selling a product to a party unit at any agreed upon price. If the price is less than full retail value, the difference is a donation in kind from the individual to the party unit. Minn. Stat. § 10A.01, subd. 7b.

Since the contribution is from an individual rather than from a candidate's principal campaign committee, there is no reporting of the transaction by the seller (although the party unit must report both the cash purchase and the donation in kind).

The conclusions reached here are applicable to any sale to a party unit. The result is not dependent on the individual seller's status as a candidate or a legislator.

Issued: 5-23-97



Carolyn D. Rodriguez, Chair
Ethical Practices Board

CITED STATUTES

10A.01 DEFINITIONS.

Subdivision 1. For the purposes of sections 10A.01 to 10A.34, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

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.