

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: Disposition of political committee assets

ADVISORY OPINION # 271

SUMMARY

Issue of whether a political committee may make large contributions to nonprofit organizations arises under Minnesota Statutes, chapter 211B, which is not within the jurisdiction of the Board. Under circumstances described, return of contributions to original sources by the political committee is an appropriate noncampaign disbursement.

FACTS

As the Treasurer of a political committee (the "Committee") registered with the Ethical Practices Board (the "Board"), you ask the Board for an advisory opinion based on the following facts:

1. The Committee has been in existence for a number of years and has raised money through individual contributions.
2. The Committee now wants to dispose of its remaining funds and to terminate its registration. The Committee has approximately \$28,000 which it must liquidate.
3. In addition to making a number of contributions to candidates, the Committee is considering making larger contributions to nonprofit organizations whose activities may relate to the election process. For example, the Committee suggests it might consider a contribution to a public higher education institution to fund scholarships in the field of public policy study or a contribution to a non-partisan organization

engaged in the promotion of the election process in general. These organizations would not be political committees or political funds registered with the Board.

4. The Committee would also like to liquidate part of its funds by returning contributions to their original sources. In doing so, the Committee would begin with the most recent year in which contributions were accepted and would return all or an equally pro rated amount of each contribution. If all contributions for a given year are returned, the Committee would repeat the process for the preceding year until available funds are exhausted.
5. The Committee is not the principal campaign committee of a candidate, nor is it a party unit committee, so no part of any contribution to the Committee has been returned to the contributor under the political contribution refund program.
6. You expect to conclude the Committee's termination shortly after the Board issues its opinion in this matter.

ISSUE ONE

May the Committee make contributions of Committee funds to nonprofit organizations which are not political committees or political funds registered with the Board?

OPINION

Use of political committee funds in general is governed primarily by Minnesota Statutes, chapter 211B, the Fair Campaign Practices Act, which is not under the Board's jurisdiction. To determine whether the proposed use is permitted under chapter 211B, you will need to consult your own legal advisors.

Use of political committee funds for certain limited purposes, characterized as noncampaign disbursements, is governed by the Board. The proposed contributions to nonprofit organizations are not included in any noncampaign disbursement recognized by the Board.

ISSUE TWO

May the Committee return contributions to the original sources under the plan proposed by the Committee?

OPINION

Yes, the Committee may return contributions to their original sources based on the proposed plan.

Return of a contribution to its source is permitted under Minn. Stat. § 10A.01, subd. 10c(b). However, the right to make such returns has always been considered to be restricted by Minn. Stat. § 10A.15, subd. 3, to the period ending 60 days after deposit of the contribution.

In this particular case, we note the following:

The Committee is neither a principal campaign committee nor a party unit; thus it has not been entitled to participate in the State's political contribution refund program. For that reason, there is no chance the Committee will be returning money which has also been refunded to the contributor by the State.

The Committee is in the process of terminating and has represented that it will complete its termination shortly after issuance of this Opinion.

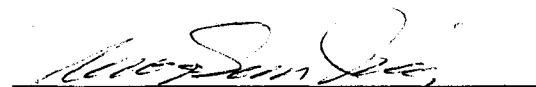
The Committee's plan will result in the return of all contributions from a given year, or an equally pro rated share of each contribution. Thus the Committee will not engage in the selective return of contributions.

No contributor will receive a return greater than the original contribution.

Under these particular circumstances, Minn. Stat. § 10A.01, subd. 10c(b) is applicable without regard to any restriction imposed by Minn. Stat. § 10A.15. This same conclusion may not be reached, however, under circumstances differing from those presented here.

The returns made based on this opinion are recognized as a return of the original contributor's donation. Thus, if a contribution is returned to an individual who is a candidate under Chapter 10A, the return does not constitute a contribution from the Committee to the candidate.

Issued: 6-27-97



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. 10c. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, by a political committee, political fund, or principal campaign committee for any of the following purposes:

. . . .

(b) return of a contribution to the source;

. . . .

(s) 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.

The board shall determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

10A.15 CONTRIBUTIONS.

. . . .

Subd. 3.

. . . .

Any deposited transfer may be returned to the contributor within 60 days of deposit. A transfer deposited and not returned within 60 days of that deposit shall be deemed for the purposes of this chapter, to be accepted by the candidate, political committee or political fund.