

State of Minnesota

Campaign Finance & Public Disclosure 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: Legal services provided by lobbyist to principal campaign committee

ADVISORY OPINION 282

SUMMARY

Legal services provided without charge by an attorney to a principal campaign committee are volunteer services provided by the attorney. However the value of any support or resources provided by the firm is a contribution to the candidate's principal campaign committee which may be limited or prohibited by Minnesota Statutes Chapter 10A. A donation of volunteer services to a principal campaign committee is not a gift to the candidate on whose behalf the principal campaign committee was established.

FACTS

You are an individual who asks the Campaign Finance and Public Disclosure Board (Board) for an advisory opinion based on the following facts which you have conveyed to Board staff in conversations:

1. You are a lobbyist registered with the Board. You are also an attorney licensed to practice law in the state of Minnesota.
2. Your practice is organized as a partnership and you are a partner in the organization.
3. It is the policy of the partnership that the partners spend significant amounts of the regular business day engaged in activities designed to forward the business of the partnership.
4. The partners are compensated by sharing in the profits of the partnership according to an established formula. A partner's share of the profits is not dependent on the specific number of hours the partner works for the business or the amount the partner bills to clients.

You have been asked by a candidate's principal campaign committee to provide legal services which it believes will, if successful, improve the candidate's chances for

nomination or election in the next general election. The candidate on whose behalf the committee was established is a public official.

5. The principal campaign committee asks that you volunteer your time to provide these services.
6. If you accept this request, you would perform the services during your normal business day, often from your law office.
7. Neither you nor your firm would charge the principal campaign committee for your services. Your firm would charge the principal campaign committee for out of pocket expenses such as filing fees or other costs, but would not charge for overhead items such as office expenses, local telephone service, or general secretarial and clerical service.
8. You believe that accepted procedure in your partnership would require you to notify the other partners that you intend to provide these services without compensation.
9. Your performance of these services would not result in a decrease in your share of partnership profits
10. If you accept the request to perform these services you will, nevertheless, have to perform all of your usual work for the partnership. The services requested by the principal campaign committee will have to be provided over and above your partnership obligations.

You ask the Board whether the performance of legal services under the circumstances described constitutes volunteer services provided to the principal campaign committee. You also ask whether the provision of these services is covered by Minn. Stat. § 10A.071 which prohibits gifts by lobbyists to public officials.

ISSUE ONE

Are legal services provided under the circumstances described in the facts considered volunteer services and, thus, not a contribution to the candidate's principal campaign committee and not subject to reporting requirements or contribution limits?

OPINION

Yes. The legal services you personally provide under the circumstances described are volunteer services. However, it is only your own personal time that is a volunteer service. The value of additional services and support provided by your firm is a contribution from the firm unless paid for by the principal campaign committee.

Volunteer services are restricted to services of an individual "volunteering personal time". Minn. Stat. § 10A.01, subd. 7. The services you describe would be performed in addition to your obligation to the partnership. Thus, they can be considered to be provided out of your personal time. However, the overhead of providing an office and all of the associated support provided by the firm is not a contribution of volunteer personal time.

Minnesota Rules, Part 4503.0500, subp. 4, sets forth the criteria for determining to whom a contribution is attributed. That subpart reads as follows:

"An individual or association that pays for or provides goods or services, or makes goods or services available, with the knowledge that they will be used for the benefit of a political committee or a political fund, is the contributor of those goods or services."

The cost of legal services includes both the attorney's time and the many support and overhead items provided by the firm. While an attorney can volunteer personal time, the firm remains the provider of all of the support structure for the attorney's work. The cost of that support structure, unless paid for by the principal campaign committee receiving the services, is a contribution from the firm to the principal campaign committee.

The firm is an unregistered association. Thus, its contribution to a principal campaign committee is limited to \$100 unless the contribution is made by a political fund established by the firm or is accompanied by the disclosure statement required by Minn. Stat. § 10A.22, subd. 7.

ISSUE TWO

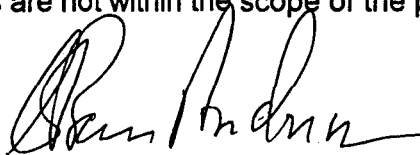
Are your volunteer legal services a prohibited gift under Minn. Stat. § 10A.071 because you are a lobbyist?

OPINION

No. You are providing legal services for the benefit of the principal campaign committee. Such services are not a gift to the individual candidate on whose behalf the principal campaign committee operates. Therefore, the services are not within the scope of the prohibitions of Minn. Stat. § 10A.071.

Issued: _____

11/21/97



G. Barry Anderson, Chair
Campaign Finance and Public Disclosure Board

CITED STATUTES

10A.01 DEFINITIONS.

Subdivision 1. **Scope.** 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. 7. **Contribution.** "Contribution" means a transfer of funds or a donation in kind. Contribution includes any loan or advance of credit to a political committee, political fund, or principal campaign committee, which loan or advance of credit is (a) forgiven, or (b) paid by an individual or an association other than the political committee, political fund, or principal campaign committee to which the loan or advance of credit is made. If an advance of credit or a loan is forgiven or paid as provided in this subdivision, it is a contribution in the year in which the loan or advance of credit is made.

A contribution made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Contribution does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee or political fund, or the publishing or broadcasting of news items or editorial comments by the news media.

. . . .

4503.0500 CONTRIBUTIONS

. . . .

Subp. 4. **Identification of contributor.** An individual or association that pays for or provides goods or services, or makes goods or services available, with the knowledge that they will be used for the benefit of a political committee or a political fund, is the contributor of those goods or services.