

State of Minnesota  
**Campaign Finance and Public Disclosure Board**  
190 Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY  
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NON PUBLIC DATA  
under Minn. Stat. § 10A.02, subd. 12(b)**

**RE: Reporting of Contributions to a Political Party**

**ADVISORY OPINION # 331**

**SUMMARY**

Customers of an Internet Service Provider (ISP) that opt to pay a portion of income earned through their use of the ISP to a political party are making individual contributions to that party. The disclosure and reporting requirements for individual contributions apply to contributions received through membership in the ISP.

**FACTS**

You ask the Campaign Finance and Public Disclosure Board (Board) for an advisory opinion concerning issues related to the following facts:

1. You represent a political party (Party) registered with the Board.
2. You wish to have your Party affiliated with an Internet Service Provider (ISP) that will rebate a portion of the income earned by the ISP from advertising and sales back to their members.
3. As a means to expand their customer base, the ISP will pay the Party, or any other organization, that recruits or "sponsors" new members a percentage of the income earned by the new members. The percentage of income paid to the sponsoring member or organization depends on the number of new members recruited by the organization, and subsequently the number of additional members that are recruited by the new members.
4. The ISP will provide the Party with a monthly report that lists the name, e-mail address, and income generated by sponsored members who use the ISP.

5. The ISP will track memberships, collect revenue from sales and advertising, calculate income earned by sponsoring members and organizations, and make payments to qualifying members.
6. The Party recognizes that specific federal and state laws apply to the promotion of referral or chain referral sales. The Party is not asking the Board to issue an opinion on the business plan of the provider, or in specific on the relevance of Minnesota Statutes 325F.69 to the referral method of recruiting new members to the ISP.

You have asked if your Party may join the ISP with the goal of using the revenue generated by ISP members as a means of party fundraising. The Board has determined that your request is composed of three separate issues.

#### **ISSUE ONE**

Does money received by the Party from the ISP represent contributions from individuals, or is the ISP compensating the Party for generating membership for the ISP?

#### **OPINION**

Individual members may join the ISP and refer their membership to any number of organizations or individuals, or may join the ISP without a referral. A member will not receive any additional benefits from using the Party as a referral. The Board concludes from this that members who join the ISP voluntarily elect to have a portion of the income they earn given to their sponsoring organization. Therefore, the Board view is that income received from a sponsored member is a contribution from that individual. The role of the ISP is to deduct and forward contributions to the Party from the earnings of individual members.

#### **ISSUE TWO**

Does the administrative cost and overhead of the ISP represent a prohibited corporate contribution to the Party?

#### **OPINION**

The statutory prohibition on most corporate contributions to candidates and political parties is contained in Minnesota Statutes 211B.15. The authority of the Board to interpret statutes is limited to Chapter 10A. The Board's duty is to inform its clients of the existence of the statute, and its regulation of corporate contributions. Therefore, the Board cannot advise whether administrative costs provided by the ISP are a prohibited corporate contribution to the Party.

#### **ISSUE THREE**

How should the Party report contributions received through the ISP to the Board?

## OPINION

ISP members who in aggregate contribute to the Party no more than \$100 of their earnings within a calendar year are reported to the Board as un-itemized contributions. ISP members who in aggregate contribute to the Party more than \$100 in a calendar year are reported to the Board as itemized contributions. Itemized contributions are reported by disclosing the date and amount of each contribution, along with the contributor's name, address, and employment information. (Minnesota Statutes 10A.13 and 10A.20).

The Board notes that if the Party cannot convince the ISP member to provide the Party with their address the entire amount of the contribution is classified as an anonymous contribution. Anonymous contributions must be forwarded to the Board for deposit in the General Account of the State Election Fund. If employment information cannot be obtained for contributors of over \$100, the Party will be in violation of reporting requirements for that contribution and may need to return the contribution to the ISP member.

## CAVEAT

The Board's opinion is limited to defining the revenue received through Party membership in the ISP as contributions from individuals, and providing guidance on how such contributions must be reported to the Board. The request presents potential issues that may be within the jurisdiction of the federal government and or other Minnesota Statutes. The Board expresses no opinion on whether the business plan of the ISP complies with relevant requirements on commerce and consumer protection. Additionally, the Board cannot provide an opinion on subjects regulated by Minnesota Statutes Chapters 211A and 211B, in specific the Board offers no opinion on whether the ISP is providing a corporate contribution to the Party.

In correspondence with the Board, the Party asked for guidance on the form of the disclaimer the Party should use in notifying new referrals that they are contributing to a political party. This question is outside of the scope of Chapter 10A. The Board suggests that the Party refer this issue to its legal council.

Issued: Sep 25, 2001

  
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Doug Kelley, Chair  
Campaign Finance and Public Disclosure Board

## CITED STATUTES

### **10A.13 ACCOUNTS THAT MUST BE KEPT.**

Subdivision 1. **Accounts; penalty.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must keep an account of:

(1) the sum of all contributions, except any donation in kind valued at \$20 or less, made to the committee, fund, or party unit;

(2) the name and address of each source of a contribution made to the committee, fund, or party unit in excess of \$20, together with the date and amount of each;

(3) each expenditure made by the committee, fund, or party unit, together with the date and amount;

(4) each approved expenditure made on behalf of the committee, fund, or party unit, together with the date and amount; and

(5) the name and address of each political committee, political fund, principal campaign committee, or party unit to which contributions in excess of \$20 have been made, together with the date and amount.

Any individual who knowingly violates this subdivision is guilty of a misdemeanor.

Subd. 2. **Receipts.** The treasurer must obtain a receipted bill, stating the particulars, for every expenditure over \$100 made by, or approved expenditure over \$100 made on behalf of, the committee, fund, or party unit, and for any expenditure or approved expenditure in a lesser amount if the aggregate amount of lesser expenditures and approved expenditures made to the same individual or association during the same year exceeds \$100.

### **10A.15 CONTRIBUTIONS.**

Subdivision 1. **Anonymous contributions.** A political committee, political fund, principal campaign committee, or party unit may not retain an anonymous contribution in excess of \$20, but must forward it to the board for deposit in the general account of the state elections campaign fund.

### **10A.20 CAMPAIGN REPORTS.**

Subd. 3. **Contents of report.**

(a) The report must disclose the amount of liquid assets on hand at the beginning of the reporting period.

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be 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 must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported, unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

(c) The report must disclose the sum of contributions to the reporting entity during the reporting period.

## **CHAPTER 325F CONSUMER PROTECTION; PRODUCTS AND SALES**

### **325F.69 Unlawful practices.**

**Subdivision 1. Fraud, misrepresentation, deceptive practices.** The act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided herein.

**Subd. 2. Referral and chain referral selling prohibited.** (1) With respect to any sale or lease the seller or lessor may not give or offer a rebate or discount or otherwise pay or offer to pay value to the buyer or lessee as an inducement for a sale or lease in consideration of the buyer's or lessee's giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease.

(2) (a) With respect to any sale or lease, it shall be illegal for any seller or lessor to operate or attempt to operate any plans or operations for the disposal or distribution of property or franchise or both whereby a participant gives or agrees to give a valuable consideration for the chance to receive something of value for inducing one or more additional persons to give a valuable consideration in order to participate in the plan or operation, or for the chance to receive something of value when a person induced by the participant induces a new participant to give such valuable consideration including such plans known as chain referrals, pyramid sales, or multilevel sales distributorships.

(b) The phrase "something of value" as used in paragraph (a) above, does not mean or include payment based upon sales made to persons who are not purchasing in order to participate in the prohibited plan or operation.