

State of Minnesota  
Campaign Finance & Public Disclosure Board  
Suite 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: Use of Party Unit Web Site to Collect Contributions for Specific Candidates.**

**ADVISORY OPINION 360**

**SUMMARY**

Political party units may provide donors with a Political Contribution Refund receipt for the aggregate amount of contributions received. Political party units may have more than one depository for receiving funds. Political party units may provide candidates with a web page and administrative overhead needed for a candidate to receive Internet contributions directly into the candidate's principal campaign committee's account.

**FACTS**

As the Chair of a major political party unit (the Party Unit), registered with the Campaign Finance and Public Disclosure Board (the Board), you ask for an advisory opinion based on the following facts:

1. The Party Unit maintains a website for providing political news and information.
2. The website provides a mechanism for individuals to contribute to the Party Unit via the Internet.
3. The Party Unit issues Political Contribution Receipts (PCR receipts) for contributions received from the website.
4. The Party Unit wishes to provide donors with the option of donating a certain amount to the Party Unit on a weekly or monthly basis from the website.
5. Donations to the Party Unit made from the website are deposited in a PayPal/credit card account established by the Party Unit. From the PayPal/credit card account the contributions are periodically transferred to the Party Unit's bank account.

6. The Party Unit is considering offering candidates the opportunity to receive web-based contributions from the Party Unit's web site. The candidate would be responsible for the cost of transaction, service, and handling fees related to the contributions. The contributions would be collected in a holding account separate from that used for funds donated to the Party Unit. The contributions would be collected and distributed by the Party Unit to the candidates in a manner consistent with relevant portions of Advisory Opinion 319.

### **ISSUE ONE**

If the Party Unit provides on the website a way for donors to contribute a certain amount to the Party Unit on a weekly or monthly basis may the Party Unit issue PCR receipts for the aggregate amount of the contributions?

### **OPINION**

There is no provision in Chapter 10A that prevents the Party Unit from aggregating multiple contributions into a single PCR receipt. The Party Unit must ensure that the aggregate PCR receipt is issued and dated only after the amount that triggers the issuance of the aggregate PCR has actually been received and deposited. A PCR cannot be issued for funds that are anticipated or promised from a contributor.

### **ISSUE TWO**

Is there a specific time frame in which contributions received over the Internet must be transferred from the Party Unit's PayPal/credit card account to the Party Unit's bank account?

### **OPINION**

A political party unit is allowed to have one or two depositories in each county contained within the unit's boundary under the provisions of Minn. Stat. §10A.11, subd. 4. Depositories are defined in Minn. Stat. §10A.01, subd. 12 as "a bank, savings association, or credit union organized under federal law and transacting business within this state". If the PayPal/credit card account qualifies as a depository under this definition then the Party Unit may wish to amend its registration to include the PayPal/credit card account as one of its official depositories. Funds contained in a depository listed on the Party Unit's registration are considered under the control of the Party Unit and do not need to be transferred to any other account.

If the PayPal/credit card account used to receive on-line donations cannot be classified as a depository then Minnesota Rules 4503.0500, subp. 3, requires that the donation be deposited in the Party Unit's depository within 10 business days.

### **ISSUE THREE**

May the Party Unit collect and forward on-line donations to candidates as described in the facts of this advisory opinion?

### **OPINION**

No, as described in the facts of the advisory opinion the Party Unit would violate the prohibition on earmarking contributions contained in Minn. Stat. §10A.16. This statute prohibits political party units from soliciting or accepting a contribution with the express or implied condition that the contribution be directed to a particular candidate other than the initial recipient. While the plan proposed by the Party Unit separates the contributions to candidates from the contributions to the Party Unit into a discrete holding account the funds are still under the control of the Party Unit until forwarded to the candidates.

### **BOARD NOTE**

The earmarking prohibition will not apply if each of the candidate's principal campaign committees has a separate PayPal/credit card account for receipt of on-line contributions. The Party Unit may provide a mechanism for the Internet based donation to occur if at no time it has control of the funds intended for the candidates. A candidate may authorize his or her principal campaign committee to approve the solicitation and collection of campaign contributions from credit cards under the provisions of Minnesota Rules 4503.0600, subpart 1.

Under the above scenario, the Party Unit must account for the cost of providing a web page and any associated administrative overhead to the candidates for the acceptance of web-based donations. The Party Unit may either bill the candidates for the service at a rate consistent with the fair market value of the website page or donate the value of the website page as an in-kind donation to the candidate. If the Party Unit provides the service to three or more candidates for constitutional, legislative, or judicial office the cost of the website page may be classified as a multicandidate political party expenditure as defined in Minn. Stat. §10A.275, subdivision 1 (4). Multicandidate political party expenditures do not count as a contribution to or expenditure on behalf of any candidate.

The Party Unit states that they are aware of the disclosure requirements for Internet based donations outlined by the Board in Advisory Opinion 319. Other associations that wish to use this advisory opinion as general guidance on Internet donations should also review Advisory Opinion 319.

Issued July 22, 2004

A handwritten signature in cursive script, appearing to read "Wil Fluegel", written over a horizontal line.

Wil Fluegel, Chair  
Campaign Finance and Public Disclosure Board

## **Cited Statutes and Administrative Rules**

### **10A.01 Definitions.**

Subd. 12. **Depository.** "Depository" means a bank, savings association, or credit union organized under federal or state law and transacting business within this state.

### **10A.11 Organization of committees and party units.**

Subd. 4. **Depositories.** The treasurer of a political committee, principal campaign committee, or party unit may designate one or two depositories in each county in which a campaign is conducted.

### **10A.16 Earmarking contributions prohibited.**

An individual, political committee, political fund, principal campaign committee, or party unit may not solicit or accept a contribution from any source with the express or implied condition that the contribution or any part of it be directed to a particular candidate other than the initial recipient. An individual, political committee, political fund, principal campaign committee, or party unit that knowingly accepts any earmarked contribution is guilty of a gross misdemeanor and subject to a civil penalty imposed by the board of up to \$3,000.

### **10A.275 Multicandidate political party expenditures.**

Subdivision 1. **Exceptions.** Notwithstanding other provisions of this chapter, the following expenditures by a party unit, or two or more party units acting together, with at least one party unit being either: the state committee or the party organization within a congressional district, county, or legislative district, are not considered contributions to or expenditures on behalf of a candidate for the purposes of section 10A.25 or 10A.27 and must not be allocated to candidates under section 10A.20, subd. 3, paragraph (g):

(1) expenditures on behalf of candidates of that party generally without referring to any of them specifically in a published, posted, or broadcast advertisement;

(2) expenditures for the preparation, display, mailing, or other distribution of an official party sample ballot listing the names of three or more individuals whose names are to appear on the ballot;

(3) expenditures for a telephone conversation including the names of three or more individuals whose names are to appear on the ballot;

(4) expenditures for a political party fund-raising effort on behalf of three or more candidates; or

(5) expenditures for party committee staff services that benefit three or more candidates.

#### **4503.0500 CONTRIBUTIONS.**

Subp. 3. **Transmission of contributions.** Promptly after receipt of any contribution or on demand of the treasurer, an individual must transmit the contribution together with any required record to the treasurer.

#### **4503.0600 USE OF CREDIT CARDS.**

Subpart 1. **Contributions.** A candidate or treasurer of a political committee or political fund may approve the solicitation and collection of campaign contributions through the use of credit cards. An organization that issues credit cards, when acting in the ordinary course of business by collecting and disbursing funds designated by the card holders for contributions to a committee or fund, is not required to register or report.