

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

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REQUESTER OF THE ADVISORY OPINION, WHICH IS NON PUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b)**

ADVISORY OPINION 408

SUMMARY

Use of a motor vehicle as an advertising device for a principal campaign committee may result in an in-kind contribution from the vehicle owner to the committee even when the vehicle is not being used specifically for campaign activities.

FACTS

As treasurer of a candidate's principal campaign committee, ("the Committee"), you ask the Campaign Finance and Public Disclosure Board, ("the Board"), for an advisory opinion based on the following facts:

1. The candidate's family's motor vehicle is used when the candidate does door-knocking, puts up signs, attends meetings and engages in other campaign-related activities.
2. The candidate and the candidate's family also use the family vehicle for normal family activities.
3. In the past the Committee has placed bumper stickers and magnetic signs on the vehicle promoting the candidate's election.
4. As treasurer, you assume that placement of bumper stickers, magnetic signs, or even signs mounted to the roof of the vehicle would not result in a recognizable in-kind contribution from the candidate to the Committee except when the vehicle is used specifically for campaign purposes and the \$20 per day threshold for disclosure of vehicle use has been met. In other words, you assume that there is no recognizable value in having various signs on the vehicle when it is parked or used for family activities.
5. You also assume that if the vehicle needed re-painting, you could paint it at your own expense and select a design or color scheme that would draw more attention to the vehicle and, thus, to the campaign signs it carried. You assume that this painting would be a personal expense and would not be recognizable as a contribution to the Committee.
6. Based on your assumptions, you ask whether having the vehicle "wrapped" in a professionally produced vehicle wrap that incorporates the campaign signs and bumper stickers would be treated differently for campaign finance purposes.

7. In the alternative, you ask whether you could wrap the vehicle in a patriotic motif and then attach the signs and bumper stickers and not report the cost of the wrap or use of the vehicle as a campaign expenditure.
8. In the event that you do wrap the vehicle and intend to leave the wrap on after the election, you ask whether the cost of the wrap would be a personal or a campaign expense.

Issue

Does the use of a motor vehicle for advertising purposes result in a recognizable campaign finance transaction even if the vehicle is not being used for transportation directly related to campaign activities?

Opinion

The “Facts” section of this opinion includes not only facts, but a statement of some assumptions made by the requester. These assumptions are included for completeness and because the Board believes that some of the assumptions may not reflect an accurate understanding of the requirements of Minnesota’s campaign finance laws.

A campaign expenditure is an expenditure that is made for the purpose of “influencing the nomination or election of a candidate . . .” . When examining the “purpose” of an expenditure, the Board will review the facts surrounding the matter. The Board is not necessarily bound by an individual’s statement of his or her purpose when the facts suggest some other purpose.

Thus, the Committee’s assumption that painting the family vehicle in a way that would make it stand out would be a personal expense is not necessarily correct. The Board might take notice of the fact that very few people ever have a vehicle repainted and that even fewer people would select a color or design scheme to make the vehicle stand out. The Board might conclude that the actual purpose of the painting was to influence the nomination or election of the candidate and, thus, that the expense is a campaign expenditure.

The Board has not issued an advisory opinion on the extent to which a vehicle may be adorned with signs and stickers before the use of the vehicle itself becomes a recognizable advertising expense even when the vehicle is not being driven for a political activity. If bumper stickers are one end of the vehicle advertising spectrum, the Committee’s request presents the other end of that spectrum.

If use of a motor vehicle automobile for advertising purposes is an in-kind contribution from the owner to the Committee, the use is to be reported at fair market value. Minnesota Rules, Part 4501.0100, subp. 3a, defines “fair market value” as “the amount that an individual would pay to purchase the same or similar service or item in the open market.”

Board staff completed research regarding the use of motor vehicles as advertising media. In particular staff looked at the concept of designing a plastic advertising wrap for application to a motor vehicle and the cost of the advertising itself.

The concept of vehicle wrapping for advertising purposes is not limited to busses and light rail trains. In fact, there is at least one Minnesota company that sells advertising wrapped onto taxicabs in the Twin Cities. Staff research disclosed that in addition to the cost of production and application of the advertising material, there is a "media cost", which is the advertising value of the vehicle driving around with the wrap on it. For a taxi, the cost for wrapped doors is \$375 per side per month. The cost of a wrapped hood is \$350 per month. According to the owner of the company in an interview with Board staff, the cost of an entirely wrapped vehicle would be \$1,200 - \$1,500 per month.

In some cities, there is a market for drivers who are willing to have their vehicles wrapped as advertising. Board staff spoke with a representative of a firm that operates a vehicle wrapped advertising business in limited markets, not including Minnesota. The representative informed staff that the monthly cost to a client for advertising with a wrapped automobile is \$1,000, plus production costs. Drivers are paid varying amounts depending on a number of factors.

When a vehicle's appearance is modified by signs, bumper stickers, paint, or other means to call attention to it, there will be a line beyond which the value of the use of the vehicle for advertising purposes is a recognizable campaign expenditure aside from the mileage used for campaign purposes. In the case of a specially painted or wrapped vehicle, that line has been crossed and a reportable transaction arises.

There is some difficulty in valuing an in-kind contribution such as the one the Committee describes. The applicable standard is to determine the fair market value of the transaction. The period of valuation should be reasonable and consistent with industry or other standards if they exist. In the case of valuation of an advertising vehicle, a one-month period would be reasonable.

The Committee must use a reasonable method to determine fair market value of the advertising. A method is reasonable if it takes into account markets and other relevant factors. A committee valuing a transaction must be able to explain its method of valuation and show why the method was reasonable. It is not sufficient to merely pick a number and apply it.

The Board recognizes that while the Committee states that the candidate will use the vehicle for routine family business, it is not possible in an advisory opinion to specifically address every possible use of a vehicle for advertising. For example, the Committee could park the vehicle at strategic locations during the day, incurring no mileage cost, but gaining from the advertising. The Committee could use several vehicles for the same purpose. If the advertising value of the vehicle is not recognizable for campaign finance purposes, the Committee could wrap the vehicles of its most active volunteers and have a fleet of advertising vehicles driving around without incurring any campaign expenditure above the production cost for the wrap.

Depending on the actual use of a wrapped advertising vehicle, the Board anticipates that a committee may conclude that the reasonable value of a wrapped personal motor vehicle is between \$750 and \$1,000 per month. However, each determination is up to the individual committee and will depend on factors unique to that committee.

Issued May 4, 2010

Bob Milbert, Chair
Campaign Finance and Public Disclosure Board

Statutory Citations

10A.01 DEFINITIONS.

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Subd. 9. **Campaign expenditure.** "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

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10A.20 CAMPAIGN REPORTS.

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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 . . . A donation in-kind must be disclosed at its fair market value. . . .

Minnesota Rules

4503.0100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter and Minnesota Statutes, chapter 10A. The definitions in chapter 4501 and Minnesota Statutes, chapter 10A, also apply to this chapter.

. . .

Subp. 3a. **Fair market value.** "Fair market value" means the amount that an individual would pay to purchase the same or similar service or item on the open market.