ADVISORY OPINIONS

(Under Minn. Stat. § 10A.02, Subds. 8 and 12)

August 31, 1992 - August 4, 1993

Numbers 125 - 132

AUGUST, 1993

MINNESOTA STATE ETHICAL PRACTICES BOARD

1ST FLOOR S., CENTENNIAL BUILDING, 658 CEDAR STREET

ST. PAUL, MN 55155-1603; (612) 296-5148

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ABOUT ADVISORY OPINIONS

. The Ethical Practices Board is authorized to issue advisory opinions on the requirements of the Ethics in Government Act, Minn., Stat. Ch. 10A, enacted in 1974, (see Minn. Stat. §10A.02, subd. 12) and the Hennepin County Disclosure Law (see Minn. Stat. § 383B.055). Individuals or associations may ask for advisory opinions about these laws to guide their actions in compliance with Minn. Stat. Ch. 10A and Minn. Stat. §§ 383B.041 - 383B.058.

. A request for an advisory opinion is published in the *State Register* before action is taken by the Board to approve an opinion. Public comment is invited. A summary of each approved advisory opinion is published in the *State Register*; full texts of opinions are available for public inspection in the Board office, 1st Floor S., Centennial Bldg., 658 Cedar St., near the State Capitol in St. Paul.

. An advisory opinion lapses the day the regular legislative session adjourns in the second year following the date of the opinion (Minn. Stat. §10A.02, subd. 12).

ABOUT THE BOARD

Mission Statement

. To promote public confidence in the state government decision making through development and administrtion of disclosure, public financing, and enforcement programs which will ensure public access to information filed with the Board.

Members

. Six member citizen body;
. Appointed by the governor; confirmed by a 3/5th vote of both houses of the legislature;
. One former legislator of each major party;
. Two individuals who have not been a public official or a political party officer in the last three years before appointment to the Board;
. No more than three members of the same political party;
. No lobbyist may be appointed to the Board.

An Advisory Opinion Index is available at the Board office.

Issued to:
Thomas J. Bieter, Esq.
300 Missabe Building
Duluth, MN 55802-1994

Approved:

August 31, 1992

RE: Campaign Expenditure Limits

ADVISORY OPINION #125

SUMMARY

125. The election year campaign expenditure limit under Minn. Stat. §§ 10A.25 and 10A.255 is applicable to a candidate with a Public Subsidy Agreement pursuant to Minn. Stat. § 10A.322 in effect during the period from January 1 of an election year for the office sought or held and until filings open in that election year for that office. This limit will be applied prospectively only from the date of this opinion.

A candidate who had a Public Subsidy Agreement in effect that expired when filings opened in 1992 and who signs a Public Subsidy Agreement after filings opened that is rescinded before September 1, 1992, has no limit on total campaign expenditures during calendar year 1992.

FACTS

You state that you are the treasurer of the Volunteers for (Eli) Miletich Committee, a principal campaign committee for the office of Senator in District 7, and that you are requesting an advisory opinion regarding campaign expenditure limits. You further state that you filed the initial Principal Campaign Committee Registration and Statement of Organization form on May 19, 1992, and that Mr. Miletich filed the Public Subsidy Agreement form thereafter.

You state that Mr. Miletich filed another Public Subsidy Agreement after July 7, 1992, and that you and Mr. Miletich have been issuing political contribution receipts (form EP-3) to contributors. You further state that you understand that Mr. Miletich can elect to rescind the Public Subsidy Agreement form prior to September 1, 1992.

You ask if Mr. Miletich were to rescind the Public Subsidy Agreement form before September 1, 1992, what would be the Board's response to the following questions:

QUESTION ONE

What would be the spending limit applicable to the period ending July 7, 1992, relative to the 1992 election?

OPINION

The Board is of the opinion that the 1992 election year spending limit under Minn. Stat. § 10A.25 (in this instance $43,150) was applicable for the period January 1, 1992, to July 7, 1992, when filings opened for the 1992 election for state legislators.

The Board has determined not to enforce the election year campaign expenditure limit that existed for the period January 1, 1992, to July 7, 1992, for candidates with Public Subsidy Agreements in effect during that time who either do not file a new agreement after filings opened or file a new agreement and rescind it by September 1, 1992. The Board is of the opinion that it would be unfair to candidates to enforce that limit retroactively, because candidates may not have been aware of the applicable

limit and the Public Subsidy Agreement provided by the Board may not have stated clearly the applicable campaign expenditure limit for the period January 1, 1992, to July 7, 1992.

However, the Board will enforce prospectively the election year campaign expenditure limit for candidates with agreements in effect during that period of an election year for the office sought or held that precedes the opening of filings. That is, such a candidate's campaign expenditures during that time period may not exceed the election year expenditure limit even if the candidate does not file a new agreement after filings open or files a new agreement and rescinds it by September 1.

A legislative candidate who filed for office in 1992 and filed a Public Subsidy Agreement after filings opened, and who does not rescind that agreement by September 1, 1992, is subject to the single statutory election year limit on total expenditures during calendar year 1992.

QUESTION TWO

Would there be any limit on campaign expenditures made in calendar year 1992?

OPINION

No. If by September 1, 1992, Mr. Miletich rescinds pursuant to Minn. Stat. § 10A.322, subd. 1 (b), the Public Subsidy Agreement he signed July 14, 1992, and filed with the Board on July 16, 1992, then there would be no limit on total campaign expenditures made in calendar year 1992.

Issued to:
Donna Denkinger
1751 Hague Avenue
St. Paul, MN 55104

Approved:

October 8, 1992

RE: Public Subsidy Agreement

ADVISORY OPINION #126

SUMMARY

126. A candidate who submits a Public Subsidy Agreement to the Board after September 1 preceding the general election is not eligible to receive the public subsidy in that election year or to receive or issue official contribution receipts. Minn. Stat. § 10A.322, subds. 1 and 4.

FACTS

On September 22, 1992, you were nominated by the chairman and secretary of the Independent-Republican Party of the 4th Congressional District within Ramsey County to fill a vacancy in nomination for the office of state representative in Legislative District 64A. You state that due to the circumstances surrounding your candidacy for the House of Representatives in District 64A, you were unable to sign the Public Subsidy Agreement by the September 1, 1992, deadline. On September 25, 1992, you submitted to the Board a Public Subsidy Agreement dated September 25, 1992.

You ask the Board whether you will be able to receive the public subsidy, the Official Contribution Receipt forms, and the receipt book for contributions.

OPINION

No. It is the opinion of the Board that a candidate who submits a Public Subsidy Agreement to the Board after September 1 preceding the general election is not eligible to receive the public subsidy in that election year or to receive or issue official contribution receipts. Minn. Stat. § 10A.322, subds. 1 and 4.

A candidate may submit a Public Subsidy Agreement to the Ethical Practices Board at any time before September 1 preceding the general election. An agrement may not be signed after that date during a general election year. Minn. Stat. § 10A.322, subd. 1.

Beginning January 1 of the year following the general election a candidate may submit a Public Subsidy Agreement to the Board and receive Official Contribution Receipt forms for contributions received in the year following the general election provided the candidate has established and registered with the Board a principal campaign committee for the office sought or held. Minn. Stat. §§ 10A.14, 10A.19, and 10A.322.

Issued to:
Alan W. Weinblatt, Esq.
Weinblatt and Davis
336 Robert Street
St. Paul, MN 55101

Approved:

November 12, 1992

RE: Campaign Finance Disclosure

ADVISORY OPINION #127

SUMMARY

127. The cost of a principal campaign committee's purchase of a facsimile machine is reportable as a campaign expenditure for the purposes of the expenditure limits in Minn. Stat. § 10A.25.

FACTS

You state that you represent Minnesota State Representative Douglas Peterson and the Friends of Doug Peterson Committee (the "committee".) You state that on February 8, 1992, the committee purchased a facsimile machine at a cost of $580. You further state that February 8, 1992, until June 15, 1992 (60 days after the Legislature adjourned sine die in 1992), the machine was used in the course of Representative Peterson's constituent communications and constituent services work. You state that from June 16, 1992, to date the machine has been used for both campaign and noncampaign purposes and that the committee reported the purchase as a noncampaign disbursement on its September 8, 1992, pre-primary report of receipts and expenditures. You state than on or about October 24, 1992, the committee received a notice from Ethical Practices Board staff changing the designation from a noncampaign disbursement to a campaign expenditure.

You ask the Board's opinion on the following issues:

QUESTION ONE

Since the committee's primary purpose in February, 1992, for purchasing the facsimile machine was for constituent services, should not the expenditure be considered a noncampaign disbursement, in whole, because the transaction was a noncampaign disbursement at the time of purchase?

OPINION

No. The Ethical Practices Board is authorized to determine whether an activity involving a principal campaign committee's payment of committee funds involves a noncampaign disbursement within the meaning of Minn. Stat. § 10A.01, subd. 10c. Payments by the committee from contributions to influence the nomination or election of a candidate and deposited in the committee depository to purchase a facsimile machine or other capital good must be reported as campaign expenditures in the year in which the equipment was purchased. Minn. Stat. §§ 10A.01, subds. 7, 7a, 8, 10 and 10A.19.

QUESTION TWO

In the alternative, since the equipment has been used primarily for constituent services and not to influence Representative Peterson's election, should not its cost be divided between noncampaign disbursements for the period February 8 though June 15, 1992, and campaign expenditures for the period June 16, 1992, through January 6, 1993,(the commencement of the next legislative session) in roughly equal proportions?

OPINION

No. A campaign expenditure must be reported in the year in which the good was purchased or the obligation to pay for the good was incurred. Minn. Stat. § 10A.01, subd. 10. The reports of receipts and expenditures in accordance with Minn. Stat. § 10A.20 require disclosure of the entire cost of the good and provide no basis for dividing the cost between campaign expenditure and noncampaign disbursement.

Issued to:
John L. Holahan, Jr.
Attorney at Law
4570 West 77th Street, Suite 223
Edina, MN 55435

Approved:

February 27, 1993

RE: Minor Political Party

ADVISORY OPINION #128

SUMMARY

128. The inclusion of a minor political party on the income tax form and property tax refund return for participation in the State Elections Campaign Fund is governed by all the provisions of Minn. Stat. § 10A.31, subd. 3a (1992).

FACTS

You state that you are writing to the Board on behalf of the Independence Party of Minnesota, an outgrowth from the Perot movement in Minnesota. You further state that it is the intention of the Independence Party to attain the status of a minor political party as defined in Minn. Stat. § 10A.01, subd. 13. You state that the organizing committee of the Independence Party believes that there is a mistake in Minn. Stat. § 10A.31, subd. 3a, which reads as follows:

Subd. 3a. A minor political party as defined in section 10A.01, subdivision 13, qualifies for inclusion on the income tax form and property tax refund return as provided in subdivision 3, provided that

(1) (a) if a petition is filed, it is filed by June 1 of the taxable year; or

(b) if the party ran a candidate for statewide office, that office must have been the office of governor and lieutenant governor, secretary of state, state auditor, state treasurer, or attorney general; and

(2) the secretary of state certifies to the commissioner of revenue by July 1, 1984, and by July 1 of every odd-numbered year thereafter the parties which qualify as minor political parties under this subdivision.

A minor party shall be certified only if the secretary of state determines that the party satisfied the following conditions:

(a) the party meets the requirements of section 10A.01, subdivision 13, and in the last applicable election ran a candidate for the statewide offices listed in clause (1) (b) of this subdivision;

(b) it is a political party and not a principal campaign committee;

(c) it has held a state convention in the last two years, adopted a state constitution, and elected state officers; and

(d) an officer of the party has filed with the secretary of state a certification that the party held a state convention in the last two years, adopted a state constitution, and elected state officer.

You point out that you have underlined subdivision 3a (2) (a) where the word "and" appears. You state that you believe that the operative word in that space should be "or." Your further state that if the statute has the word "or" as opposed to "and," then subdivision 3a (2) (a) conforms with subdivision 3a (a) (1). You state that as the statute is presently worded it would require a third party to run candidates for governor, etc., before the secretary of state could certify that the party is eligible for inclusion on the income tax return "checkoff." You further state that this result is contrary to the options provided in the previous subdivisions, that this is an apparent conflict in the law, and that the Independence Party would like to petition for inclusion on the income tax checkoff in the upcoming year.

You ask the Board to review Minn. Stat. § 10A.31, subd. 3a, and advise the Independence Party accordingly.

OPINION

In construing statutes, every law shall be construed, if possible, to give effect to all its provisions. Minn. Stat. § 645.16 (1992). When a general provision in a law is in conflict with a specific provision in the same law, the two shall be construed, if possible,so that effect may be given to both. Minn. Stat. § 645.26, subd. 1 (1992). It is possible to read and give effect to both clauses (1) and (2) of Minn. Stat. § 10A.31, subd. 3a, and therefore they are not in conflict with each other. Accordingly, the Board holds that all the provisions of Minn. Stat. § 10A.31, subd. 3a, are effective as written and duly enacted by the Legislature.

Issued to:
B. Holly Schadler, Esq.
Perkins Coie
607 - 14th St., N.W.
Washington, DC 20005-2011

Approved:

April 21, 1993

RE: Campaign Finance Disclosure

ADVISORY OPINION #129

SUMMARY

129. The Democratic Congressional Campaign Committee is not included in the exemption to the campaign finance disclosure law for the purposes of Minn. Stat. § 10A.22, subd. 7 (1992).

FACTS

You are counsel to the Democratic Congressional Campaign Committee (DCCC) and you state that you are requesting clarification of the reporting requirements under Minnesota Statutes Chapter 10A as applied to the DCCC. You further state that pursuant to Federal Election Commission regulations, the DCCC is a national political party committee affiliated with the Democratic National Committee. 11 C.F.R. § 110.2 (c) (2). You point out that 11 C.F.R. § 110.2 states: For purposes of this section "political committees established and maintained by a national political party" means -- i) the national committee; ii) the House campaign committee; and iii) the Senate campaign committee. You state that like the Democratic National Committee, the DCCC may receive contributions up to $15,000 from a multi-candidate committee and $20,000 from any individual. You further state that under the Federal Election Campaign Act, 11 C.F.R. § 110.7, the Democratic National Committee may delegate to the DCCC its authority to make coordinated party expenditures on behalf of House candidates in a general election. You state that under federal law a state party committee may delegate its Section 441a(d) authority to the DCCC. You further state that the DCCC is thus a recognized agent of the Democratic National Committee and the state parties and cite Democratic Senatorial Campaign Committee v. Federal Election Commission, 454 U.S. 27 (1981). You state that the foregoing are only two of the many provisions that demonstrate that, for purposes of federal law, the DCCC is treated as a national party committee.

You state that the DCCC, as a national party committee, also supports state Democratic Party committees. You further state that in 1992 the DCCC made contributions to the State DFL and related party entities. You further state that the DCCC registered with the Ethical Practices Board in August, 1992, well in advance of its first contribution in Minnesota. You state that at the time of registration with the Board the DCCC had no specific plans to contribute funds in Minnesota. You further state that ultimately the DCCC made contributions only to state DFL party groups, not to state candidates in Minnesota. You state that Minn. Stat. § 10A.22, subd. 7, exempts a national political party from certain disclosure requirements when the national party transfers money to its affiliate in Minnesota. You further state that the application of the exemption cited in Section 10A.22, subd. 7, to the DCCC appears to be consistent with the DCCC's status as a political party under federal law and with the activity the DCCC conducted in Minnesota in 1992.

You ask the Board to answer the following question:

> Does the reporting waiver for a national political party pursuant to Minn. Stat. § 10A.22, subd. 7, exempt the Democratic Congressional Campaign Committee from the reporting requirements under Minn. Stat. Ch. 10A?

OPINION

No. The exemption from certain disclosure provisions of Minn. Stat. § 10A.22, subd. 7, applies only when a national political party transfers money to its affiliate in the state of Minnesota. The Board concludes that the Democratic Congressional Campaign Committee (DCCC) is not a national political party within the meaning of the statutory exemption.

The DCCC registered with the Board in 1992 and made contributions to certain political committees in Minnesota in 1992. Therefore, the DCCC must file with the Board periodic reports of receipts and expenditures Board that meet the disclosure requirements of Minn. Stat. § 10A.20 (1992).

The Board notes that if the DCCC were to terminate its registration with the Board, certain provisions of section 10A.22, subd. 7, for statements in lieu of registration with the Board would apply to the DCCC in the future should the DCCC make contributions of more than $100 to no more than three political committees or political funds in Minnesota in a calendar year.

Issued to:
The Honorable Richard H. Jefferson
577 State Office Building
St. Paul, MN 55155

Approved:

March 10, 1993

RE: Fundraising During Legislative Session

ADVISORY OPINION #130

SUMMARY

130. A candidate for any constitutional or legislative office as defined in Minn. Stat. § 10A.01, subd. 5, and a committee authorized by that candidate to seek nomination or election to a local office are prohibited by Minn. Stat. § 10A.065 (1992) from soliciting or accepting a contribution from a registered lobbyist, political committee, or political fund during a regular session of the legislature.

FACTS

You are a member of the Minnesota House of Representatives and you state that you are requesting a clarification of state law as it pertains to the prohibition of legislators fundraising during the legislative session. You further state that you are a candidate for the office of Mayor of Minneapolis, a local municipality, and that you have formed a campaign committee for that purpose.

You state that it is your belief that Minn. Stat. § 10A.065, subd. 1, only applies to legislators, candidates for the legislature, or as recently amended during the 1991 session, to constitutional offices of the state. You point out that in your opinion the language of this section broadly prohibits soliciting and accepting contributions during the session from a registered lobbyist, political committee or political fund. You state that the law specifically restricts the soliciting or accepting of contributions to: "A candidate for the legislature or for constitutional office, a candidate's principal campaign committee, any other political committee with the candidate's name or title, or any committee authorized by the candidate."

You ask the Board to note the operative language of the word "candidate." You cite Minn. Stat. § 10A.01, subd. 5, which provides that a "candidate" is defined as "an individual who seeks nomination or election to any statewide or legislative office for which reporting is not required under federal laws." You state that this section further expands the definition so that it "shall also include an individual who seeks nomination or election to the supreme court, court of appeals, or district court judgeships in the state." You note that the cited section provides that a candidate remains a candidate until the principal campaign committee is dissolved. You state that nowhere in the definition of "candidate" does the definition refer to candidates for local municipal election. You further state that Minn. Stat. § 10A.01, subd. 1, provides that "for the purposes of section 10A.01 to 10A.34, the terms defined in this section have the meaning given them unless the context clearly indicates otherwise."

You state that it is your belief that one should read the provisions of Minn. Stat. §§ 10A.01, subds. 1, 5, and 10A.065 together and that by so doing the prohibition against soliciting or accepting contributions during the legislative session should only apply to committees for candidates for statewide or legislative offices.

You state that recently you talked with the authors of Minn. Stat. § 10A.065 and that it was indicated to you that part of the intent was to ensure that all candidates for legislative office were on the same level as an incumbent and that in the interest of fairness and for ethical considerations, the ban on legislative fundraising during

session was passed. You further state that in your local race, you are one of four candidates seeking your party nomination this June and that all of your opponents are either local elected officials or staff to elected officials. You point out that there is no ban on their fundraising efforts. You state that if your campaign committee for the local office is not able to raise money from registered lobbyists, political committees, or registered political funds, then it is your opinion that your campaign will be severely limited and that you do not believe this was the intent of the law.

You ask the Board to answer the following question:

> Does the fundraising prohibition as outlined in Minn. Stat. § 10A.065 apply to legislators who are running for local offices and prohibit you from soliciting or accepting contributions for the local office during the legislative session from a registered lobbyist, political committee, or political fund?

OPINION

Yes. A candidate as defined in Minn. Stat. § 10A.01, subd. 5, remains a candidate until the candidate's principal campaign committee for the office sought or held files a termination report under Minn. Stat. §§ 10A.24 or 10A 241 (1992). The committee authorized and established by a candidate for constitutional or legislative office as defined in Minn. Stat. § 10A.01, subd. 5, who is seeking nomination or election to an office for which no reporting is required under Minn. Stat. Ch. 10A, is included in the prohibition imposed by Minn. Stat. § 10A.065 against "...any committee authorized by the candidate" soliciting or accepting a contribution from a registered lobbyist, political committee, or political fund during a regular session of the legislature.

The Board notes that the prohibition imposed by Section 10A.065 does not extend to soliciting and accepting contributions during a legislative session from individuals who are not registered lobbyists and from political parties.

Issued to:
Alan W. Ingram, Executive Director
National Association of Social Workers
Minnesota Chapter
480 Concordia Avenue
St. Paul, MN 55103

Approved:

August 4, 1993

RE: Payments to Political Fund

ADVISORY OPINION #131

SUMMARY

131. The limitation on aggregate contributions made or delivered by an individual, political committee, or political fund does not apply to a political committee or political fund other than a candidate's principal campaign committee. Payments of members' political contributions to a political fund as rebates through a national organization are not contributions from the national organization. Minn. Stat. §§ 10A.01, subd. 7, 10A.27, and Laws of 1993, Ch. 318, Art. 2, Secs. 26 and 31.

FACTS

You state that you are asking about the implications of the "bundling" restrictions on the periodic payments by your national PAC to your state PAC, MN-PACE, a registered political fund. You further state that you are requesting the Ethical Practices Board to advise your organization as to the legal status of such payments under current Minnesota law (or laws that will go into effect as a result of the 1993 Campaign Finance Reform Act.)

You state that the National Association of Social Workers (NASW) has incorporated into its membership application and renewal forms a $5.00 check-off for its political action committee. You state that one-half of that amount ($2.50) is rebated to the state chapter from which the member is a resident and that twice each year the national PAC sends a check covering the rebates that have accrued to your state PAC members during the past six months. You further state that NASW uses its share for federal office campaigns and that your chapter must use your share for state or local office campaigns.

You ask the Board to keep in mind that the amount of these checks is merely the sum total of your share of the "checkoffs" by Minnesota members of NASW and that your local committee then endorses and makes contributions to state or local candidates out of these aggregated funds. You state that the total contribution to any candidate does not exceed the applicable limits for contributions from a single political action committee and that your normal contribution to candidates does not even come close to these limits.

You ask the Board the following question:

> Does the two-installment payment system (which saves administration costs) violate the intent of the anti-bundling provisions of the 1993 Campaign Finance Reform Act?

OPINION

No. The limitation on the acceptance of certain aggregate contributions under Minn. Stat. § 10A.27, subd. 1, as amended in Laws of 1993, Ch. 318, Art. 2, Sec. 26, does not apply to a political committee or political fund other than a principal campaign

committee established by a candidate for state constitutional or legislative office. Board records show that MN-PACE is a registered political fund established by National Association of Social Workers, Minnesota Chapter, whose supporting association is the National Association of Social Workers.

It is the opinion of the Board that the two installment payments that MN-PACE receives from the National Association of Social Workers (NASW) are not "contributions" to MN-PACE from NASW within the meaning of Minn. Stat. § 10A.01, subd. 7 (1992). Because the checks are the sum total of the rebates of $2.50 per Minnesota member of NASW passed through the national organization, the payments are not subject to the $100 per year contribution limit imposed by Minn. Stat. § 10A.27, subd. 12 (Laws of 1993, Ch. 318, Art. 2, Sec. 31).

Issued to:
Mike Triggs, Executive Director
(Arne) Carlson/(Joanell)
Dyrstad Volunteer Committee
Suite 180-S, 1821 University Ave. W.
St. Paul, MN 55104

Approved:

August 4, 1993

RE: Defective Campaign Material

ADVISORY OPINION #132

SUMMARY

132. Campaign material that was not defective when received whose accuracy is altered by subsequent committee actions is not defective within the meaning of Minn. Stat. § 10A.01, subd. 10c, as amended in Laws of 1993, Ch. 318, Art. 2, Sec. 3.

FACTS

You are the executive director of a registered principal campaign committee. You state that in 1992 the Carlson/Dyrstad Volunteer Committee (CDVC) outgrew its office space in the Gallery Building and moved its offices to 1821 University Avenue West, Suite 180-S, where the office is currently located. Prior to the move CDVC staff had purchased letterhead and envelopes in anticipation that those campaign items would be used throughout the four-year election cycle. At the time of the committee office move in October, 1992, the CDVC had on hand 21,000 envelopes and 1,750 pieces of letterhead printed with the Gallery Building address. You state that in your opinion letterhead and envelopes with a wrong return address have no value to the campaign and that consequently on Friday, June 18, 1993, those items were deposited in the current [office] building's recycling bins.

You state that at the time the letterhead and envelopes were printed they were paid for by the CDVC and reported as a "campaign expenditure." You state that in your opinion the material was "defective" in that the return address was no longer correct and no longer deliverable since the date of the forwarding order had expired. You further state that Webster's defines "defect" as a "lack of something necessary for completeness." You state than in your opinion the lack of a "correct" address would clearly make these items "lacking something necessary for completeness."

You ask the Board the following question:

> Do the letterhead and envelopes with a return address that is no longer correct fall within the new "defective campaign material" language of Minn. Stat. § 10A.01, subd. 10c, as amended in Laws of 1993, Ch. 318, Art. 2, Sec. 3?

OPINION

No. Campaign material that was not defective when received does not become defective by subsequent circumstances that may affect the continuing utility the material. It is the opinion of the Board that campaign material may become obsolete by events occurring after its purchase by a candidate's committee; however, these events do not cause the balance of the campaign material to be defective within the meaning of Minn. Stat. § 10A.01, subd. 10c, as amended in Laws of 1993, Ch. 318, Art. 2, Sec. 3.

It is the Board's opinion that the cost of replacing the 21,000 envelopes and 1,750 pieces of letterhead that were destroyed on June 18, 1993, may be reported as a noncampaign disbursement on the Carlson/Dyrstad Volunteer Committee's Report of Receipts and Expenditures covering these transactions. Minn. Stat. § 10A.01, subd. 10c,

and Laws of 1993, Ch. 318, Art. 2, Sec. 3. The cost of additional envelopes and letterhead beyond replacing the destroyed products must be reported as a campaign expenditure.