

Opinion Withdrawn – Wisconsin Ethics Commission – 12/06/2016

Summary:

Out-of-pocket costs assumed by the host of a party held for political purposes are reportable if funds are raised at the party with the knowledge of the host. Such contributions may be made "in-kind" with the consent of a candidate's treasurer. Certain costs of fund-raising events, although reportable, are excludable from disbursement limitations. An item donated for resale is reportable and the gross proceeds of the sale need be reported after the item is sold. (Issued to Kate Barbash, October 31, 1974)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was revised to require reporting of the gross proceeds from the sale of an item donated for resale. The opinion below was reaffirmed by the Government Accountability Board on May 5, 2008 and fully incorporates the revisions directed by the G.A.B.

Opinion:

You inquire as to the opinion of the board concerning a number of questions relating to the reporting of fund-raising events and other political gatherings.

First, you ask whether the assumption of social costs by the hosts of a party, reception or coffee organized for the purpose of introducing a candidate to the guests is reportable as a "contribution" to the candidate as defined in §11.01 (5), Stats., if no charge is made for attendance. It is the opinion of the board that any expense involved in the gathering at private residences which are not fundraisers and at which no funds are raised with the consent of the host, is not a gift of a thing of merchantable value for political purposes, and therefore does not, fall within the definition of "contribution" or "disbursement."

Second, you inquire as to whether in the same situation, the social costs would be likewise reportable if there were an admission charge assessed in order to raise funds for political purposes. It is the opinion of the board that the answer is "yes," if funds are collected with the knowledge of the host. Under §11.01 (5), the purchase of food or beverages would be a gift of a thing of merchantable value (personalty), and should be valued at replacement cost at the time of transfer. The hiring of service for such an event would also fall within the definition under §11.01 (5)(g). However, the hosts need not value use of their house for such an event, because such use has little or no merchantable value. The costs of the event would be reportable as a disbursement but would be excludable from disbursement limitations under §11.31 (6), Stats.

Third, you inquire as to whether an individual, with the consent of a candidate or his personal campaign committee, may underwrite the costs of a fund raising event, whether held in his home or in a place of public accommodation, and, if so, how this should be reported. It is the opinion of the board that an individual may underwrite such costs and that the contribution should be valued as an "in-kind" gift and reported as a contribution received and disbursement made.

Sections 11.01 (5) and (6), Stats., clearly contemplate that a contribution or disbursement may assume a form other than cash. Sections 11.12 (1) and 11.22 (2)(a), Stats., only require that contributions and disbursements in support of a candidate be made through the campaign

treasurer of the candidate, in other words, reflected on his books. A contribution of personalty should be reported at its replacement cost at the time of transfer. If the event is held at a place of public accommodation, the cost of the facilities should be reported either at its actual cost or fair rental value, whichever is greater, unless it is customary for facilities to be provided at no cost to similar non-political gatherings. Again, the contribution should be valued as an in-kind gift and reported as a contribution received and disbursement made.

Further, you inquire whether items donated for resale need be reported as contributions and disbursements, in addition to reporting the proceeds of the sale. It is the opinion of the board that the answer is "yes." Such items are of merchantable value under §11.01 (5)(a), Stats. The law allows a limited number of exclusions from disbursement limitations for the costs of fund raising events. Therefore it is possible that the gift of certain items may be excludable but there is no indication that it would not be reportable if the gift is made for political purposes as defined in §11.01 (16), Stats. However, where an "in-kind" contribution is received and listed as a disbursement in addition to being reported as a contribution, the gross proceeds of the sale need be reported as a contribution by the purchaser. The "in-kind" contribution should be reported at its merchantable value as determined by the donor at the time of transfer. The price paid by the purchaser should be reported as a contribution from the purchaser. (See also GAB §1.56, Wis. Admin. Code.)