

Opinion Withdrawn – Wisconsin Ethics Commission – 12/06/2016

Summary:

Contributions: Use of charge card for contributions over \$50 is permissible where such use produces a document identifying the contributor's name and the amount contributed. §11.16 (2). (Issued to Michael D. Regenfuss, August 25, 1976)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on May 5, 2008. The opinion was codified by 1979 Wisconsin Act 328 at §11.16(2), Stats.

Opinion:

You ask whether a contribution in excess of \$50 can be made with a Master Charge card. Section 11.16 (2), Stats., provides:

"Every contribution of money exceeding \$50 shall be made by negotiable instrument bearing on the face the name of the remitter. No treasurer may accept a contribution made in violation of this subsection. The treasurer shall promptly return the contribution, or donate it to the common school fund or to a charitable organization in the event that the donor cannot be identified."

You indicate that the processing of a Master Charge card contribution produces for the benefit of the recipient a document known as a "sales draft" or "contribution draft" which bears on its face the identity of the contributor and amount contributed.

Such a document is not a "negotiable instrument" as that term is defined in Chapter 403, Stats., which deals with "Commercial Paper." However, the intent of the legislature in enacting §11.16 (2), Stats., was to prevent cash contributions over \$50 and to ensure that each contribution in such amount is made by an instrument bearing the name of the contributor and the amount contributed.

Accordingly, the Board is of the opinion that the use of a charge card to make contributions over \$50 is permissible where such use produces for the benefit of the recipient a document which carries on its face the identity of the contributor and amount of the contribution.