

## **Opinion Withdrawn – Wisconsin Ethics Commission – 12/06/2016**

### **Summary:**

**Multiple Candidate Committees.** The personal campaign committee of a candidate seeking more than one office may ensure compliance with contribution limits by either (a) separate bookkeeping and reporting or (b) adherence to the lowest applicable contribution limit. Such committee may not claim the \$250 reporting exemption if its total activity, attributable to all offices sought, is over \$250. GAB 1.02, Wis. Adm. Code, Sec. 11.05 (2r), Stats. (Issued to Mary Alice Sullivan, March 16, 1978)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on May 5, 2008. The G.A.B. directed an annotation be added alerting the public that statutory changes subsequent to the opinion's issuance have raised the exemption threshold to \$1,000. 1985 Wisconsin Act 303; §11.05(2r), Stats. With the addition of the aforementioned annotation, the opinion below fully incorporates the revisions directed by the G.A.B.

### **Opinion:**

As treasurer of a candidate for city office in the April 1978 election and for state office in the fall 1978 election, you have inquired about the application of campaign finance laws to persons seeking more than one office.

Your first question is about the application of contribution limits to such candidate. In GAB 1.02, Wis. Adm. Code, the Board promulgated a rule on multiple candidacies, which limits such candidate to a single treasurer, personal campaign committee and depository, and provides that "the personal campaign committee of such a candidate is responsible for ensuring compliance with the contribution limitation applicable to each office sought."

It is the Board's opinion that a multiple candidate's committee could meet its responsibility for ensuring compliance with contribution limits in either of two ways:

(I) Separate bookkeeping and reporting.

Under this method, the committee could accept contributions up to the applicable limit for each office sought, provided that the following conditions of separate bookkeeping and reporting are met: (1) each contribution is earmarked by the contributor for a particular office, and so designated on the committee's campaign finance reports; (2) non-contribution income (commercial loans, interest, rebates, etc.) is designated for a particular office and so reported by the committee; (3) disbursements and incurred obligations are designated for a particular office and so reported; (4) the total of disbursements made and obligations incurred for a particular office does not exceed the total of contributions and non-contribution income designated and ultimately collected for that office.

The following guidelines should be kept in mind: Per GAB 1.02 a multiple candidate committee reports activity for all offices during a report period on a single report, copies of which are filed with the filing officers for all offices sought. A committee required to separate activity related to different offices should do so on each report. In-kind contributions used for campaigns for

different offices may be pro-rated among or between the campaigns, according to each campaign's use of or benefit from such contribution. A contributor may designate a single transfer to the committee as containing contributions for different offices, provided that the amount applicable to each office is specifically designated. Contributions by the committee to another candidate or committee ("transfers out") are not subject to the specific designation requirements set out above for other expenditures.

(2) Application of lowest applicable limit.

The alternative method by which a multiple candidate campaign can ensure compliance with contribution limits is to avoid acceptance of any contribution which exceeds the lowest applicable limit. For example, if a candidate is seeking two offices and the limit which an individual can contribute to the campaign for one office is \$1,000 while the limit for the other is \$800, the committee would accept no more than \$800 from a single source. A committee using this method need not meet the conditions of separate reporting and bookkeeping set out above for committees accepting contributions up to the limit for each office sought.

Your second question relates to the statutory exemption from reporting requirements available to a non-voluntary committee which does not exceed \$250 of financial activity in a calendar year. §11.05 (2r), Stats. You ask whether, if a dual candidate's campaign committee is under that mark for a local office but not for a state office, the committee may claim the exemption for the local office and avoid filing local primary and election reports.

The Board is of the opinion that the pertinent statute would prevent such exemption claim. Section 11.05 (2r) provides the exemption only for a "committee" which does not exceed \$250 in total activity. As indicated previously, GAB 1.02 and §11.10, Stats., limit a candidate to one "committee" regardless of whether more than one office is sought. Even though a committee's activities related to one office may be under \$250, if its total activity exceeds that point it cannot claim the \$250 exemption.