

Opinion Withdrawn – Wisconsin Ethics Commission – 12/06/2016

Summary:

A registered conduit may transfer funds from members' accounts to political committees (PAC's) and those transfers will be treated as the contributions from the individual members who authorized the transfers to the PAC in the amount authorized by each member.

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on October 6, 2008.

Opinion:

You have requested that the State Elections Board issue an opinion pursuant to §5.05(6), Stats., regarding an interpretation of the various subsections of Wisconsin's Statutes that govern contributions from conduit accounts, to wit: §§11.01(5m), 11.05(9), 11.06(11), 11.24(1m), and 11.26(12m), Stats. Specifically, you have asked whether contributions may be made to political committees (PAC's) from conduit accounts. The Elections Board concludes that because such contributions are not prohibited by the statutes, they are permissible.

Nowhere in the five statutory conduit subsections above has the legislature expressly prohibited transfers or contributions from a conduit account to a political committee (PAC). The only statute that describes or identifies contributors from conduit accounts is §11.05(9), Stats., which reads as follows:

11.05 Registration of political committees, groups and individuals.

(9) CONDUITS. (a) For purposes of this chapter, every individual who and every committee or group which deposits a contribution in an account at a financial institution as defined in s.705.01(3), is considered to receive and accept the contribution.

(b) An individual who or committee or group which receives a contribution of money and transfers the contribution to another individual, committee or group while acting as a conduit is not subject to registration under this section unless the individual, committee or group transfers the contribution to a candidate or a personal campaign, legislative campaign, political party or support committee.

The legislature, in requiring conduit registration only for contributions to candidates, personal campaign committees, legislative campaign committees, political party committees or candidate support committees did not limit the contributions of registered conduits to those specific transferees and to no others. Nor did the legislature forbid conduit registration for conduits that gave to others. If that was the legislature's intent, it failed to express that intent in the statutes. The legislature simply made registration mandatory for conduits transferring to those contributors.

The implication that may be drawn from the statutes is that registration is permissible, but not mandatory, for anyone else who, acting as a conduit, transferred depository account funds to other contributees. What the last sentence of §11.05(9)(b), Stats., above, says is that if a transfer is made to a candidate, or a personal campaign committee or to a legislative campaign, political party or candidate support committee, the conduit conducting the transfer is required to register as a conduit. If an individual or organization, acting as a conduit, makes a transfer to anyone else, it is not subject to a registration requirement as a conduit. That does not mean, however, that an individual or organization who makes a transfer to anyone else, while acting as a conduit, may not register as a conduit or that no transfer to anyone other than those listed may occur. The conduit statutes probably reflect the conduit practice extant at the time the statutes were created and that practice did not include (or contemplate), at that time, contributions from conduits to PAC's.

Any individual or organization that wants to deposit a contributor's money into a depository account and transfer that money to a PAC as the contribution of the source of the money must register as a conduit. Otherwise, the deposit into the depository account makes the individual or organization depositing the money a PAC and the contribution becomes that of the PAC to the beneficiary of the contribution, (the other alternative is an illegal, laundered contribution prohibited by §11.24, Stats.). The conduit must also obtain each member's authorization to make a contribution to the PAC and that authorization must be specific as to the amount to be contributed.