

Use of a hall or room without charge need not be reported as an in-kind contribution if the hall or room is also provided without charge to non-political organizations. (Issued to David M. Travis, February 18, 1976)

You have requested the Board's opinion on two questions presented as follows:

"Situation 1. Assume a candidate's personal campaign committee would exceed the expenditure limitations for a previous campaign if it made any further disbursements relating to that campaign. Furthermore, assume that the campaign committee were carrying forward a debt from this campaign.

If the campaign committee wished to sponsor a fundraising event with the dual purpose of retiring the debt and raising funds for a future campaign, could the excludable fundraising costs under s. 11.31 (6), 1973 Wisconsin Statutes, as amended by Chapter 93, Laws of 1975, be credited to the previous campaign while nonexcludable costs associated with the event, such as the printing of tickets, printing and mailing of invitations, or advertising for the event, be credited to the future campaign, pursuant to s. 11.31 (7)(a), Laws of 1975? What if the event were not successful and only raised enough money to pay, or partially pay, the debt without raising any additional funds for the future campaign?"

"Situation 2. If a political committee obtained a hall or room for a political gathering at no charge, must this necessarily be reported as an in-kind contribution if it could reasonably be inferred that the proprietors of the room or hall received other benefits from the event being held. For instance, an establishment might receive the benefit of advertising for the event, it might benefit from increased bar sales or restaurant sales, or, in the case of a hotel, increased room rentals from persons attending the event."

The first situation you describe involves the disbursement limitations of sec. 11.31, Stats. The Board has decided not to issue any opinions in this area because of the recent United States Supreme Court decision, Buckley v. Valeo, decided January 30, 1976, which has a substantial effect on the validity of any disbursement limitations.

As for the second situation you describe, it is the Board's opinion that under the facts presented the use by a political committee of a hall or room need not be reported as an in-kind contribution.

Therefore, you are advised that the use of a hall or room without charge need not be reported as an in-kind contribution if the lessor of the hall or room also allows use of it free of charge to non-political organizations.

The candidate appearances contemplated here would apparently be directed primarily toward "political purposes," sec. 11.01 (16): You have described the subject of the appearances as the candidate's "candidacy" or a topic of "political interest." Therefore, it would be generally impermissible for a corporation to subsidize such appearances.¹

The only way in which a corporation could properly characterize this endeavor as "administration" of its separate segregated fund, rather than a prohibited contribution or disbursement, is if the audience were limited to those directly involved in determining how the monies of the fund will be used. Those determinations are an intrinsic part of the administration of a political fund, and expenditures to facilitate their making are proper for the sponsoring corporation. (Note that this would not allow the corporation to subsidize a political appearance before the entire membership of its fund, unless the entire membership votes on the fund's contribution and expenditure policies. If those policy decisions are limited to a particular unit of the political action committee, the audience must be so limited.)

2. Your second question is, under those circumstances in which the items described above may properly be characterized as "administration" of the separate segregated fund, how should those items be valued?

The Board's authority to issue formal opinions is limited to questions about one's statutory responsibilities under the election or campaign finance laws. s. 5.05 (6), Stats. Because a corporation's expenditures for "administration" of its funds are unlimited, and because the statute does not require reporting of those expenditures, it appears that a corporation's recording (and valuation) of such expenditures is not a matter of statutory responsibility. Hence the Board declines to issue an opinion on this question.

I see, generally, Ops. El. Bd. 76-1 and 77-8. Also, the Federal Elections Commission interpretation of similar statutory language in the Federal Election Campaign Act supports the conclusion reached here. 11 CFR 114.9 (d), AO 1975-94 and AO 1977-31.