

Fund-raising by committee agents: Where circumstances indicate that one is collecting contributions as agent of a committee, he or she must inform the committee of each collected contribution within three days of its collection and transmit the contribution to the committee's treasurer within five days of its collection. S. 11.06 (2), Stats. (Issued to Wm. Pharis Horton, November 17, 1977)

You have submitted the following fact situation as background for a formal opinion request:

The Wisconsin Realtors Association (WRA), a statewide professional association of licensed real estate brokers and salesmen, is made up largely of "local boards" which promote and, to some degree, implement WRA programs. Among WRA programs is a segregated political fund (RPAC) which carries on a statewide solicitation drive. Local boards may be involved in the "promotion and implementation" of that drive in the following particulars: Solicitation materials are distributed and solicitation-related announcements are made at local board meetings; local board members contact and solicit potential contributors to RPAC.

Although solicitation materials call for direct transmittal of contributions to RPAC, in some situations a contributor will deliver his check directly to the board member who solicits his contribution. Because of "the press of business activities, the desire to combine several checks in one mailing, and, presumably other reasons" the local board member may wish to delay transmittal of contributions to RPAC for "periods ranging up to several weeks." The local board members receive no compensation from RPAC for their fund-raising efforts.

Your opinion request arises out of s. 11.06 (2)(c), Stats., which requires a person acting as an "agent" of a committee treasurer to report each contribution he collects to the committee's treasurer within three days and transmit the contribution to the committee's treasurer within five days. You have requested an opinion on whether a local board member who receives a contribution under the above circumstances is an "agent" of RPAC and subject to the time requirements set out above. You contend that the local board member is not an agent, but merely a link in the chain of delivery.

For the reasons set out below, the Board disagrees with your position.

First, the legal requisites of agency exist here. It is apparent that under the circumstances described above, RPAC and the local board members have consented to a relationship in which board members act for RPAC in fund-raising.

Further, the purpose of s. 11.06 (2)(c) is to ensure timely disclosure and forwarding of contributions to a committee by its agents, so that the committee may meet its obligations to timely deposit and report contributions received. Ss. 11.06 (2)(a), 11.14 (1), Stats. That purpose would be circumvented if local board members who collect contributions on behalf of RPAC were allowed to indefinitely delay disclosure and transmittal of those contributions to RPAC.

The opinion adopted here does not impose an undue burden on local board members or RPAC. The proper sequence of statutory deadlines is as follows: When a board member accepts a contribution for RPAC, he informs RPAC within three days and transmits the contribution to RPAC within five days. (The latter requirement could be met by depositing the contribution in the mail addressed to RPAC, on the fifth day.) Once the contribution is under his control, the RPAC treasurer has 5 business days to deposit it in the depository. Ss. 11.06 (2)(c), (2)(a), and 11.14 (1), Stats.

Note that acceptance of an unlawful contribution by a local board member would not necessarily result in a violation of the campaign finance law. Violation would occur only if RPAC does not return or donate the unlawful contribution within 10 days of its receipt from the board member. S. 11.06 (2)(b), Stats.

The Board concludes that, under the circumstances described above, a local board member is a fund-raising agent of RPAC and must inform RPAC of each contribution he collects within 3 days of its receipt and transmit such contribution to RPAC within 5 days of its receipt.