

Advisory Opinion

IECDB AO 2012-5

August 23, 2012

To ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(12) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on the procedures a trust must follow to avoid a contribution in the name of another, in violation of Iowa Code section 68A.502. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

In IECDB Advisory Opinion 2002-02, the Board issued an opinion addressing the proper disclosure procedures a trust must follow when making campaign contributions in excess of \$500. Due to changes in the laws and rules, the Board issues this updated opinion.

QUESTION:

What are the specific procedures for a trust that makes contributions to committees registered with the Board in excess of \$750?

OPINION:

A trust, except for a living or revocable trust, that raises or spends more than \$750 for campaign activities is considered a permanent organization temporarily engaging in political activity requiring the trust to create a political committee ("PAC").¹ The PAC is required to file a DR-1 organizing a committee,² and shall also file periodic disclosure reports pursuant to Iowa Code section 68A.402. The reports shall disclose the transfer of money from the trust into the PAC's segregated account.³ On Schedule A, the PAC shall identify the name of the trust, the trustee, and trustor.⁴ On Schedule B, the PAC shall identify the recipient of the campaign contribution.⁵ When the PAC ceases making campaign contributions it shall file Form DR-3 dissolving the PAC.⁶ The recipient committee shall report the contribution on its disclosure report and shall identify the trust, the trustee, and the trustor.⁷

A trust, other than a living or revocable trust, that makes a one-time contribution in excess of \$750, may file Form DR-OTC in lieu of filing a statement of organization, disclosure reports, and a statement of dissolution.⁸

On Form DR-OTC, the trust shall identify the name of the trust, the trustee, and the trustor, the amount of the contribution, and the recipient.

If the trust is a living or revocable trust that does not file a separate tax return and the federal tax ID of the trust is the same as the social security number as the grantor of the trust who is also a trustee, only the recipient of the contribution is required to file disclosures with the Board.⁹ The recipient committee shall report the contribution as being made from “(name) revocable (or living) trust.”¹⁰

Iowa Code section 68A.502 prohibits contributing in the name of another. A trust that uses funds from a person other than the trustor to make a campaign contribution shall disclose the source of those funds on its disclosure reports and the recipient committee shall do the same.¹¹

Iowa Code section 68A.503 prohibits insurance companies, savings and loan associations, banks, credits unions and corporations from making monetary or in-kind contributions to a candidate or committee except for a ballot issue committee. Therefore, prohibited contributors may not give money or anything of value to a trust that makes campaign contributions except to a ballot issue committee. Section 68A.503 does not prohibit a trust that has received insurance proceeds, interest or dividends on an account, or proceeds from the sale of stocks or bonds from making campaign contributions.

IECDB Advisory Opinion 2002-02 is hereby rescinded.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
John Walsh, Vice Chair
Saima Zafar
Carole Tillotson
Jonathan Roos
Mary Rueter

Submitted by Megan Tooker, Board Legal Counsel

¹ Iowa Admin. Code r. 351—4.31(3).

² See Iowa Code § 68A.201 (2011); see also Iowa Admin. Code r. 351—4.2(1), (2).

³ Iowa Code § 68A.402(9) (2011); Iowa Admin. Code r. 351—4.9(13).

⁴ Iowa Admin. Code r. 351—4.14.

⁵ Iowa Admin. Code r. 351—4.15.

⁶ Iowa Code § 68A.402B; Iowa Admin. Code r. 351—4.55.

⁷ Iowa Admin. Code r. 351—4.31(2).

⁸ Iowa Admin. Code r. 351—4.31(3).

⁹ Iowa Admin. Code r. 351—4.31(1).

¹⁰ Iowa Admin. Code r. 351—4.31(1).

¹¹ Iowa Code § 68A.402(9).