

Advisory Opinion
IECDB AO 2000-02

April 20, 2000

Dwight L. Dinkla
Executive Director
Iowa State Bar Association
521 E. Locust, 3rd Floor
Des Moines, Iowa 50309-1939

Dear Mr. Dinkla:

This opinion is in response to your letter of April 7, 2000, in which you request an opinion from the Iowa Ethics and Campaign Disclosure Board. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 56 and 68B and rules in Iowa Administrative Code chapter 351. Whether some other statutory system, common law theory or agency rule applies to this issue is not covered by this opinion.

FACTUAL STATEMENT:

We understand you request this opinion in your capacity as the Executive Director of the Iowa State Bar Association. You advise us that your association has established a political committee (LawPac) for the purpose of supporting candidates. LawPac recently received contributions from attorneys that were written on professional corporation checking accounts.

You further advise us that when reviewing a Board pamphlet entitled "A Guide for PACs and Their Committee Officers", you noted that political committees supporting candidates may not accept corporate contributions. However, the pamphlet also contained an exception as follows: "A PAC is allowed to use its corporate sponsor's funds and property for the true administrative cost of the PAC (printing of stationery, salary for staff who administer the PAC, postage to solicit contributions, etc.)."

QUESTIONS:

Does the exception stated in the pamphlet permit LawPac to accept contributions written on a professional corporation account if the contributions received by LawPac are used strictly for true administrative costs? If not, does current law require these contributions to be returned to the donors?

OPINION:

Iowa Code section 56.15 in pertinent part states:

"1. Except as provided in subsections 3 and 4, it is unlawful for an insurance company, savings and loan association, bank, credit union, or corporation...to contribute any money, property, labor, or thing of value, directly or indirectly, to a committee....

2. Except as provided in subsection 3, it is unlawful for a member of a committee...to solicit, request, or knowingly receive from an insurance company, savings and loan association, bank, credit union, or corporation...any money, property, or thing of value....

3. It is lawful for an insurance company, savings and loan association, bank, credit union, and corporation...to use the money, property, labor, or any other thing of value of the entity for the purposes of soliciting its stockholders, administrative officers, and members for contributions to a committee sponsored by that entity and of financing the administration of a committee sponsored by that entity...."

The Board first notes that the prohibitions in this section apply to a "candidate's committee" and to a "political committee" that advocates for the election or defeat of a "candidate". Any committee set up solely to advocate for or against a "ballot issue" may solicit and accept corporate contributions. (See Iowa Code section 56.2 for relevant definitions.)

The language in the pamphlet is taken from rule 351 IAC 4.88(3) that in pertinent part states: "For the purposes of interpreting Iowa Code section 56.15 subsection 3, which permits an entity otherwise forbidden from contributing to a candidate or a candidate's committee to 'financ[e] the administration of a committee sponsored by that entity,' the following are considered to be allowable costs...." The rule then provides examples that are restated in the pamphlet.

In answer to your questions, Iowa Code section 56.13(3) and rule 351 IAC 4.88(3) allow the corporate sponsor of a political committee to use its corporate account for certain administrative transactions. However, in your situation, the corporate money is not coming from LawPac's corporate sponsor, but is coming from other corporations. Thus, we opine the exception does not apply to your situation. Based on our initial determination, any contributions to LawPac that are written on corporate accounts must be returned to the donor and new contributions made from personal accounts.

Advisory Opinion
IECDB AO 2000-01
April 20, 2000
Page 3

BY DIRECTION AND VOTE OF THE BOARD

Bernard McKinley, Board Chair
1st Vice-Chair Geraldine Leinen
2nd Vice-Chair James Albert
Gwen Boeke
Mark McCormick
Phyllis Peters

Submitted by: W. Charles Smithson, Board Legal Counsel