

Advisory Opinion

IECDB AO 2001-11

October 18, 2001

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11), the Iowa Ethics and Campaign Disclosure Board takes the opportunity to issue its opinion on whether trusts are considered "permanent organizations" for purposes of the campaign finance laws. 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.

OPINION:

Iowa Code section 56.6(6) in pertinent part states:

"A permanent organization temporarily engaging in activity which would qualify it as a political committee shall organize a political committee and shall keep the funds relating to that political activity segregated from its operating funds. The political committee shall file reports in accordance with this chapter. When the permanent organization ceases to be involved in the political activity, it shall dissolve the political committee....

As used in this subsection 'permanent organization' means an organization which is continuing, stable, and enduring, and which was originally organized for purposes other than engaging in election activities."

The Board is unaware of any case law that has defined whether or not a trust is a "permanent organization". In addition, there has not been the promulgation of a rule or a determination in a contested case proceeding that provides guidance concerning the application of this section to a trust. While Board rule 351 IAC 4.47 provides procedures for reporting of a contribution by a trust to avoid a "contribution in the name of another", it does not speak to a trust registering as a "political committee".

As such, when interpreting this section the Board must rely on the language of the statute while keeping in mind that the very purpose of the campaign laws is public disclosure. The Board is of the opinion that a trust falls within the definition of a "permanent organization" as set out in Iowa Code section 56.6(6). To determine otherwise would undermine the disclosure requirements and render the campaign finance laws meaningless.

Therefore, any trust that contributes in excess of \$500 to state or local committees in Iowa (see Iowa Code section 56.2(18)) must register as a "political committee" and comply with the requirements of the campaign finance statutes. By issuing this opinion the Board overturns any policy or advice previously issued concerning the application of this section to trusts. However, the determination made in this opinion applies to future conduct and does not apply to action previously undertaken. The Board will initiate the rulemaking process to adopt the determination set out in this opinion into rule. In the interim, this opinion serves as the Board's official interpretation of this section.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair

1st Vice-Chair Geraldine Leinen

2nd Vice-Chair Gwen Boeke

Mark McCormick

Bernie McKinley

Phyllis Peters

Submitted by: W. Charles Smithson, Board Legal Counsel