

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

.....  
**October 2, 2012  
Room 225  
Minnesota Judicial Center**  
.....

**MINUTES**

The meeting was called to order by Chair McCullough.

Members present: Beck, McCullough, Scanlon, Wiener  
Members Luger and Peterson informed Executive Director prior to the meeting that they would not be able to attend.

Others present: Goldsmith, Sigurdson, Larson, White, Pope, staff; Hartshorn, counsel

**MINUTES** (September 13, 2012)

Member Scanlon's motion: To approve the September 13, 2012, minutes as drafted.

Vote on motion: Unanimously passed.

**CHAIR'S REPORT**

**Board meeting schedule**

The next Board meeting is scheduled for Wednesday, November 7, 2012.

Staff presented the Board with the 2013 schedule and noted that the January 2<sup>nd</sup> and September 3<sup>rd</sup> meetings may be moved to the following week and that the Executive Director would poll members on the exact dates at a later time.

**EXECUTIVE DIRECTOR'S TOPICS**

Executive Director Goldsmith reported on recent Board office operations.

The 4<sup>th</sup> Report of Receipts and Expenditures for political committees and funds was due September 25, 2012, and staff is busy processing them before the next report due October 29, 2012, which will also include candidate committees and party units.

## **Budget**

Mr. Goldsmith presented the Board with a memorandum which is attached to and made a part of these minutes.

The 2014-15 biennial budget process is moving forward. Salary projections based on current staffing levels and assumptions that Minnesota Management and Budget provides to the Board is now complete and a copy of the salary projections spreadsheet is attached to and made a part of these minutes.

Mr. Goldsmith explained that the spreadsheet presented is troublesome. For the purpose of preparing the documents, staff is required to assume the same appropriations that we had for Fiscal Year 2012-13, which was \$689,000. Calculated projected figure for Fiscal Year 2014 is \$623,000, and for Fiscal Year 2015, \$645,000.

Executive Director noted that with annual rent of \$40,000, the projections would leave only \$26,000 for Fiscal Year 2014 and \$4,000 for Fiscal Year 2015 to cover all other operating expenses. Without additional financial resources, the Board would be forced to make significant staff cuts.

Mr. Goldsmith provided a draft bill which is attached to and made a part of these minutes that would put into place a registration fee system which could be a possible solution to 2014-15 biennial budget issues. The document is a revision of a draft that was produced for the 2010 legislative session and shared with some legislators, but never produced in the form of a bill.

The next step of the process is the development of the operating expense portion of the budget and to identify the level of staff reductions that would be required to have sufficient remaining operating funds.

## **Complaints not accepted**

Executive Director Goldsmith presented the Board with correspondence which is attached to and made a part of these minutes related to a complaint received but not accepted by Mr. Wellens regarding City of Shorewood who allegedly failed to register with the Board.

## **ENFORCEMENT REPORT**

The Board considered the monthly enforcement report, presented by Assistant Executive Director Sigurdson. The Board took the following actions related to matters on the Enforcement Report:

**Discussion Items**

**A. Confirmation of the administrative termination for the following lobbyist at the request of the Lobbyist Association:**

Joshua Lin, Koch Companies, on behalf of Diane Schmidt, Vice President of State Government Affairs Division, requests the termination of Meghan McDaniel, lobbyist for Georgia Pacific LLC, Koch Pipeline Co. LP, and Flint Hills Resources LP. Mr. Lin states Ms. McDaniel is no longer employed with Koch Companies Public Sector LLC and any affiliated companies she was registered to represent. The effective termination date is September 10, 2012.

After discussion the following motion was made,

Member Scanlon's motion: To approve the termination of Meghan McDaniel as a lobbyist for Georgia Pacific LLC, Koch Pipeline Co. LP, and Flint Hills Resources LP.

Vote on motion: Unanimously passed.

**B. Waiver Requests**

<u>Name of Candidate or Committee</u>	<u>Reason for Fine</u>	<u>Late Fee Amount</u>	<u>Civil Penalty Amount</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Anne Marcotte Campaign	15 day Report due July 30, 2012	\$50	\$0	Submitted the report using the software and had trouble entering a loan. The report could not be created or submitted with a negative balance. Filed one day late.	Scanlon	Waive the \$50 late fee	Unanimous
Anne Nolan Campaign	15 day Report due July 30, 2012	\$500	\$0	Candidate was having health issues at the time the report was due. Also, had a software/computer issue.	Beck	Waive the \$500 late fee	Unanimous
Mahnomen County RPM	15 day Report due July 30, 2012	\$50	\$0	The treasurer states that the letter notifying the committee of its reporting requirement arrived at the treasurer's address on July 31 <sup>st</sup> .	Beck	Waive the \$50 late fee.	Unanimous
Lyon County RPM	15 day Report due July 30, 2012	\$350	\$0	The treasurer mailed a paper report on July 30 which was not received by the Board. Staff contacted the treasurer and she was told we would wait for the mailed copy. The treasurer told staff that she distinctly remembered the postal worker telling her she had enough postage on the envelope. The treasurer mailed a copy of the report on 8/8 after staff contacted her again.	Wiener	To reduce the late fee to \$50	Unanimous
Sibley County RPM	15 day Report due July 30, 2012	\$700	\$0	Faxed the report on 7/24 to wrong fax number (transmission report said it transmitted). In a similar situation the fine was reduced to \$50.	Scanlon	To reduce the late fee to \$50	Unanimous

Clay County GPM	15 day Report due July 30, 2012	\$250	\$0	Treasurer was used to getting a report form in the mail.	Wiener	To reduce the late fee to \$125	Unanimous
Twin Cities Jewish Community PAC	15 day Report due July 30, 2012	\$100	\$0	Committee has \$34.70 as of Sept. 18. Staff contacted the treasurer to inquire about the future of the committee. He was not able to commit to closing the committee without discussing with other members.			Waiver on hold until further information can be obtained.
Mary Sawatsky for State Rep	24 hour notice	\$1000	\$0	Treasurer was not aware of the contribution until a month after it was received.	Wiener	To reduce the late fee to \$250	Unanimous
Robert Cunniff for State House	24 hour notice	\$750	\$0	Treasurer did not realize an in-kind contribution under \$400 combined with cash contribution (received on different dates but within the pre-election period) would trigger a 24 hour notice requirement/	Beck	To reduce the late fee to \$200	Unanimous
Bruce Schwichtenberg Vol. Committee	24 hour notice	\$300	\$0	Candidate did not immediately inform the treasurer of two large pre-election contributions.	Wiener	To reduce the late fee to \$100.	Unanimous
Blum (Joe) Vol. Committee	24 hour notices	\$600 \$500	\$0	Candidate made 2 payments on an unpaid bill during the pre-election period result in in contributions to his committee during the 24 hour period	Wiener	To reduce the total late fee to \$200	Unanimous
Reid Johnson for House	2011 Year-end Report	\$1000	\$800	Candidate states the treasurer was out of the county when the 2011 report was due. Board's records were not changed to reflect the treasurer's name which appeared on the cover page of the report filed with the software in 2010. The name was not on the original registration form. Mail was being sent to the candidate. Staff spoke to Mr. Johnson a few times by phone to remind him of the reporting requirement. Mr. Johnson is running in the 2012 election and his committee has received \$3478 in public subsidy.	Wiener	To reduce the late fee to \$500, full amount will be reinstated if full amount is not paid in 30 days.	Unanimous
Bowling Political Action Comm.	15 day Report due July 30, 2012	\$100	\$0	Committee is small with little activity.	No Motion		
Minn Architects PAC	15 day Report due July 30, 2012	\$450	\$0	There was a misunderstanding which July report was being referred to in the reminder notice.	No Motion		
66A HD DFL	15 day Report due July 30, 2012	\$100	\$0	Treasurer attempted to send by email but typed in the wrong email address	No Motion		

**Informational Items**

**A. Payment of a late filing fee for June 19, 2012 56-day pre-primary-election report:**

Gay and Lesbian Victory Fund, \$50

**B. Payment of a late filing fee for July 17, 2012 28-day pre-primary-election report:**

Central Lakes Senior Caucus, \$150  
GREAT-Great River Energy Action Team, \$100  
MIFSC, \$100  
SEH Employees Minn Committee, \$50  
Vote November 6, \$50  
Working Families Fund, \$50

**C. Payment of a late filing fee for July 30, 2012, 15-day pre-primary-election report:**

Boals (Justin) Campaign, \$150  
Tony Cornish for State Rep, \$50  
Dave Holman Committee, \$300  
(Warren) Limmer for Senate Committee, \$50  
Sean Nienow Volunteer Committee, \$50  
Swedzinski (Chris) for House, \$50

Choice In Minnesota Healthcare, \$50  
Iron Range Bldg. Trades PAF, \$50  
Minn Services Station Assn., \$50  
Plumbers and Pipefitters Local 589 PAC, \$50  
UTU PAC-MN, \$50  
Working Families Fund, \$100

**D. Payment of a late filing fee for the 2010 Annual Report of Lobbyist Principal due March 15, 2012::**

Union of Concerned Scientist, \$70

**E. Payment of late filing fee for a Candidate Economic Interest Statement:**

Campaign for Bob Barrett, \$10  
Reid Johnson for House, \$10  
Sean Nienow Volunteer Committee, \$15

**F. Payment of a late filing fee for the June 15 Lobbyist Disbursement Report:**

Scott Moen, Fish and Wildlife Association, \$35

**G. Payment of a late filing fee for registration:**

Jill Clark for Justice, \$85

**H. Payment of a civil penalty for exceeding contribution limit to a candidate:**

54A House District RPM (now 66A), \$504.20

**I. Payment of a civil penalty for a contribution from an unregistered association:**

County Then All Properly, \$1,109.73

Republican Party of Minnesota, \$7,000

**J. Payment of a civil penalty for failure to provide a registration number:**

Michael McGovern, lobbyist, \$250

**K. Deposit to the General Fund, State Elections Campaign Fund:**

Campaign fund for John Bacon, \$25 (anonymous)

Keith Downey for Senate, \$50 (anonymous)

**ADVISORY OPINION REQUESTS**

**Advisory Opinion #429 – Scope of expenditures that should be reported as lobbying disbursements or included in the calculation of the Annual Report of Lobbyist Principal**

The request that will result in Advisory Opinion 429 is non-public data and was received by the Board on June 8, 2012. Staff asks that the Board lay the matter over until the next meeting.

After discussion, the following motion was made:

Member McCullough's motion: To lay Advisory Opinion #429 over until the next Board meeting.

Vote on motion: Unanimously passed.

**LEGAL COUNSEL'S REPORT**

Board members reviewed a memo from Counsel Hartshorn outlining the status of cases that have been turned over to the Attorney General's office. The Legal Counsel's Report is made a part of these minutes by reference.

**EXECUTIVE SESSION**

The Chair recessed the regular session of the meeting and called to order the Executive Session. Upon completion of the Executive Session, the regular session of the meeting was called back to order and the following items were reported from the Executive Session:

**Findings and Order in the Matter of the Complaint of Common Cause Minnesota regarding the Republican Party of Minnesota and David Thompson**

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

**Findings and Order in the Matter of a Complaint of Common Cause Minnesota regarding Minnesota for Marriage Political Committee**

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

**Findings and Order in the Matter of a Complaint of Common Cause Minnesota regarding Minnesota Majority**

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

**Findings and Order in the Matter of a Complaint of Doug Baker regarding Ken Tschumper for the Minnesota House**

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

**Findings and Order in the Matter of the acceptance of a contribution from an unregistered association without the required disclosure**

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

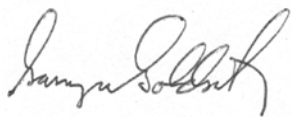
**Findings and Order in the Matter for a candidate committee that made a contribution to a candidate for federal office**

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes

**OTHER BUSINESS**

There being no other business, the meeting was adjourned by the Chair.

Respectfully submitted,



Gary Goldsmith

Executive Director

Attachments:

September 25, 2012, memorandum regarding Budget

Salary Projection 2013 to 2015 spreadsheet

Revised 2010 legislative session draft bill regarding registration fee system

Complaint of Wellens regarding the City of Shorewood city council

Findings and Order in the Matter of the Complaint of Common Cause Minnesota regarding the Republican Party of Minnesota and David Thompson

Findings and Order in the Matter of a Complaint of Common Cause Minnesota regarding Minnesota for Marriage Political Committee

Findings and Order in the Matter of a Complaint of Common Cause Minnesota regarding Minnesota Majority

Findings and Order in the Matter of a Complaint of Doug Baker regarding Ken Tschumper for the Minnesota House

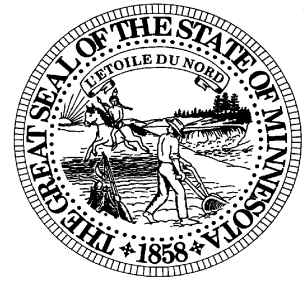
Findings and Order in the Matter of the acceptance of a contribution from an unregistered association without the required disclosure

Findings and Order in the Matter for a candidate committee that made a contribution to a candidate for federal office



Minnesota

*Campaign Finance and  
Public Disclosure Board*



**Date:** September 25, 2012

**To:** Board members

**From:** Gary Goldsmith, Executive Director

**Telephone:** 651-539-1190

**Re:** Budget

The 2014-15 biennial budget process is moving forward. At the last meeting I provided you with a copy of the agency profile, which will be the cover page of the Board's section in the Governor's budget.

The next step in the process, which I have now completed, is to prepare salary projections based on current staffing levels and assumptions that Minnesota Management and Budget provides for us. I have attached a copy of the salary projections spreadsheet.

The picture presented by the spreadsheet is bleak. The columns to review in particular are the 8th and 9th column. I have highlighted the key figure in each column with a darker box around it. This represents the projection for each of FY 14 and 15. For FY 14, the projection exceeds \$623,000. For FY 15, the projection is nearly \$645,000. For the purpose of preparing our budget documents, we are required to assume the same appropriation that we had in FY 12-13, which is \$689,000.

With annual rent of \$40,000, members can see that in FY 14, we would project only \$26,000 for all other operating expenses. For FY 15, that amount drops to only \$4,000. Obviously, without additional financial resources, significant staff cuts will be required.

The next step in the budget process is to develop the operating expense portion of the budget and to identify the level of staff reductions that would be required to have sufficient remaining operating funds to run the agency. I may be able to present preliminary work on that exercise at the October meeting.

I also provide with this memo a draft bill that would put in place a registration fee system. This document is a revision of a draft that was produced for the 2010 legislative session and shared with some legislators, but never produced in the form of a bill and never introduced. I will discuss how the proposed system would work so that the Board can consider whether to recommend such a proposal as it works on its 2013 legislative recommendations.

Attachments:

Salary Projections spreadsheet

Draft registration fee bill

Salary Projection 2013 to 2015 SABC

Fiscal Year Num	Annual Projected Salary Amt	Annual Projected FICA Amt	Annual Projected Insurance Amt	Annual Projected Retirement Amt	Annual Projected Fringe Amt	Annual Projected Total Comp Amt	Total with 2.25% increase	Total with 2.25% increase compounded	Position Desc	Position FTE Pct	Name Full
2013	\$25,128.95	\$1,922.36	\$15,683.50	\$1,256.45	\$18,862.31	\$43,991.26			Ofc&AdSpIn	1.00	Haas-White,Elizabeth Jane
2013	\$84,927.05	\$6,434.96	\$16,268.85	\$5,095.62	\$27,799.43	\$112,726.48			AstExScEPB	1.00	Sigurdson,Jeffrey G
2013	\$94,421.72	\$7,193.90	\$6,691.83	\$5,665.36	\$19,551.09	\$113,972.81			ExDirCampF	1.00	Goldsmith,Gary W
2013	\$41,794.72	\$3,191.85	\$6,182.39	\$2,169.71	\$11,543.95	\$53,338.67			Ofc&AdSpPr	1.00	Waller,Marcia J
2013	\$51,695.68	\$3,922.89	\$15,790.62	\$2,604.79	\$22,318.30	\$74,013.98			INVESTIGAT	1.00	Larson,Joyce R
2013	\$60,241.40	\$4,516.32	\$15,863.98	\$3,012.07	\$23,392.37	\$83,633.77			InfoTech 3	1.00	Peterson,Jon C
2013	\$52,718.94	\$4,007.52	\$15,698.16	\$2,635.95	\$22,341.63	\$75,060.57			InfoTech 3	1.00	Bauer,Gary M
2013	\$26,095.20	\$1,993.53	\$209.78	\$1,351.79	\$3,555.10	\$29,650.30			MgtAnlyst2	0.60	Pope,Jodene A
2013	<b>\$440,742.66</b>	<b>\$33,462.26</b>	<b>\$91,269.48</b>	<b>\$23,977.71</b>	<b>\$148,709.45</b>	<b>\$589,452.11</b>					
2014	\$33,617.00	\$2,571.70	\$16,486.28	\$1,680.85	\$20,738.83	\$54,355.83	\$55,578.84		Ofc&AdSpIn	1.00	-
2014	\$86,106.25	\$6,587.12	\$16,986.25	\$5,166.49	\$28,739.86	\$114,846.11	\$117,430.15		AstExScEPB	1.00	Sigurdson,Jeffrey G
2014	\$95,732.71	\$7,323.66	\$6,987.47	\$5,744.09	\$20,055.22	\$115,787.93	\$118,393.16		ExDirCampF	1.00	Goldsmith,Gary W
2014	\$43,592.07	\$3,334.78	\$6,454.76	\$2,179.66	\$11,969.20	\$55,561.27	\$56,811.40		Ofc&AdSpPr	1.00	Waller,Marcia J
2014	\$52,413.50	\$4,009.74	\$16,486.28	\$2,620.70	\$23,116.72	\$75,530.22	\$77,229.65		INVESTIGAT	1.00	Larson,Joyce R
2014	\$63,294.36	\$4,842.11	\$16,562.84	\$3,164.72	\$24,569.67	\$87,864.03	\$89,840.97		InfoTech 3	1.00	Peterson,Jon C
2014	\$55,413.55	\$4,239.15	\$16,389.76	\$2,770.64	\$23,399.55	\$78,813.10	\$80,586.39		InfoTech 3	1.00	Bauer,Gary M
2014	\$27,096.83	\$2,072.88	\$8,250.00	\$1,354.86	\$11,677.74	\$38,774.57	\$39,647.00		MgtAnlyst2	0.60	Pope,Jodene A
2014	<b>\$453,934.41</b>	<b>\$34,726.33</b>	<b>\$96,570.29</b>	<b>\$24,515.48</b>	<b>\$155,812.10</b>	<b>\$609,746.51</b>	<b>\$623,465.81</b>				
2015	\$34,452.00	\$2,635.58	\$16,486.28	\$1,722.60	\$20,844.46	\$55,296.46	\$57,812.79		Ofc&AdSpIn	1.00	-
2015	\$86,106.25	\$6,587.12	\$16,986.24	\$5,166.49	\$28,739.85	\$114,846.10	\$120,072.32		AstExScEPB	1.00	Sigurdson,Jeffrey G
2015	\$95,732.71	\$7,323.66	\$6,987.48	\$5,744.09	\$20,055.23	\$115,787.94	\$121,057.01		ExDirCampF	1.00	Goldsmith,Gary W
2015	\$44,749.25	\$3,423.23	\$6,454.75	\$2,237.46	\$12,115.44	\$56,864.69	\$59,452.39		Ofc&AdSpPr	1.00	Waller,Marcia J
2015	\$52,413.50	\$4,009.74	\$16,486.28	\$2,620.70	\$23,116.72	\$75,530.22	\$78,967.32		INVESTIGAT	1.00	Larson,Joyce R
2015	\$65,543.32	\$5,014.17	\$16,562.83	\$3,277.15	\$24,854.15	\$90,397.47	\$94,511.12		InfoTech 3	1.00	Peterson,Jon C
2015	\$57,306.64	\$4,383.95	\$16,389.75	\$2,865.40	\$23,639.10	\$80,945.74	\$84,629.28		InfoTech 3	1.00	Bauer,Gary M
2015	\$28,033.43	\$2,144.48	\$8,250.00	\$1,401.76	\$11,796.24	\$39,829.67	\$41,642.17		MgtAnlyst2	0.60	Pope,Jodene A
2015	<b>\$460,170.24</b>	<b>\$35,203.25</b>	<b>\$96,570.25</b>	<b>\$24,827.37</b>	<b>\$156,600.87</b>	<b>\$616,771.11</b>	<b>\$644,838.05</b>				

**10A.01 Definitions**

**Subd. 26. Noncampaign Disbursements**

(15) filing fees paid to be on the ballot; late filing fees, civil penalties, and registration fees paid to the Board;

**10A.02 Campaign Finance and Public Disclosure Board**

**Subd. 15. Disposition of civil penalties and late filing fees.** The board must deposit all civil penalties and late filing fees collected under this chapter into the general fund in the state treasury.

**10A.023 Board Funding; Registration fees.**

**Subd 1. Fees established.** a. The Board must assess annual registration fees as set forth in this subdivision to partially fund the cost of operation of its programs.

b. The following registration fees must be paid for each calendar year or portion of a calendar year during which a registration is active on or after July 1 and are due as set forth in subd. 17:

i. Lobbyists registered under section 10A.03, subd. 1: \$50 per lobbyist/association registration.

ii. Candidates' principal campaign committees, party units, political committees, and political funds, based on receipts:

<u>a. Receipts of \$0 - \$2,500</u>	<u>Registration fee: \$50</u>
<u>b. Receipts of \$2,500.01 - \$5,000</u>	<u>Registration fee \$100</u>
<u>c. Receipts of \$5,000.01 - \$10,000</u>	<u>Registration fee \$150</u>
<u>d. Receipts of \$10,000.01 - \$25,000</u>	<u>Registration fee \$200</u>
<u>e. Receipts of \$25,000.01 - \$100,000</u>	<u>Registration fee \$250</u>
<u>f. Receipts of \$100,000.01 - \$250,000</u>	<u>Registration fee \$500</u>
<u>g. Receipts greater than \$250,000</u>	<u>Registration fee \$1,000</u>
<u>h. Initial registration of a registrant with no receipts history:</u>	<u>\$100</u>

c. "Receipts", as used in this subdivision, means all money and in-kind receipts from any source. The receipt amount on which a registration fee is based is the average of the registrant's receipts for four the most recent completed calendar years prior to the year in which the fee is being paid. If a registrant was not registered during all four such calendar years, the registration fee is based on the average of the registrant's receipts for the number of calendar years the registrant was registered immediately prior to the year for which a registration fee is being paid.

**Subd. 2. Payment of registration fees; late payments.** a. Registration fees are due and must be paid at the time of any new registration is filed and annually thereafter on July 1 of each calendar year. A new registrant who pays a registration fee between January 1 and June 30 of a calendar year is not required to pay the annual registration fee due July 1 of that year.

b. The Board must provide written or electronic notice prior to the date a registration fee is due. Notice to an individual responsible for payment of a registration fee sent to the most recent United States mail or electronic mail address provided by the individual constitutes valid notice.

c. The Board may impose a penalty equal to 50% of the registration fee if the registration fee is not paid by the due date. the Board may impose a penalty of an additional 50% of the original registration fee amount if the registration fee is not paid within 30 days of the due date. The Board may take such legal or other measures as available to collect unpaid registration fees and penalties.

d. The treasurer of the principal campaign committee, political committee or fund, or party unit is responsible for paying any registration fee or penalty that becomes due. Registration fees and penalties may be paid using principal campaign committee, political committee or fund, or party unit funds. In the case of a candidate's principal campaign committee, the candidate is also personally liable for payment of any registration fee or penalty.

**Subd. 3 Adjustment by Consumer Price Index.**

Subdivision 1. Method of calculation. The dollar amounts in subdivision 1 of this section must be adjusted each general election year as provided in this section. Each general election year, the executive director of the board must determine the percentage increase in the Consumer Price Index from December of the year preceding the last general election year to December of the year preceding the year in which the determination is made. The dollar amounts used for the preceding year must be multiplied by that percentage. The product of the calculation must be added to each dollar amount to produce the dollar limitations to be in effect for the subsequent year. The product must be rounded up to the next highest \$10 increment. The index used must be the revised Consumer Price Index for all urban consumers for the St. Paul-Minneapolis metropolitan area prepared by the United States Department of Labor.

**Subd. 4. State Campaign Finance Board Registration Fees Account.** a. A state Campaign Finance Board registration fee account is established in the state treasury. All fees and penalties collected under this subdivision must be deposited the state treasury and credited to the state Campaign Finance Board registration fee account.

**Subd. 5. Appropriation from general fund.** For each fiscal year, the amount of \$600,000 is appropriated to from the general fund of the state to the board for its general operations.

**Subd. 6. Additional Appropriation.** On a quarterly basis, money in the state Campaign Finance Board registration fees account, up to a fiscal year aggregate total of \$ \_\_\_\_\_ is appropriated to the board for carrying out its duties under this chapter. Any amounts remaining in the state Campaign Finance Board registration fees account in excess of this appropriation shall be carried forward to the next fiscal year and shall be available for appropriations required under this subdivision.

**Subd. 7. Accounting and adjustments.** The Board must report to the legislature not later than January 15th of each odd-numbered calendar year concerning the cost of operation of its lobbying and campaign finance programs. The report must include recommendations to the legislature concerning adjustments to the fees imposed in subd. 16 to ensure that lobbyist registration fees do not exceed the cost of administering the lobbying programs of the board and to ensure that the fees imposed on principal campaign committees, party units, political committees and political funds do not exceed the cost of administering the campaign finance programs of the board. The report required under this subdivision must be provided to the chair

and ranking member of each policy and finance committee in a body of the legislature having jurisdiction over the board and to the leadership of each body.

Draft

## Goldsmith, Gary (CFB)

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**From:** Goldsmith, Gary (CFB)  
**Sent:** Tuesday, September 04, 2012 9:27 AM  
**To:** 'm.wellens@mchsi.com'  
**Cc:** Larson, Joyce (CFB); Sigurdson, Jeff (CFB)  
**Subject:** RE: <http://www.cfboard.state.mn.us/Staff.htm> Campaign Finance Complaint

Dear Mr. Wellens,

The court case that you refer to related to school districts and local elections. The matter you are concerned about relates to a political subdivision in a state election. The court case has no bearing on that issue.

Under Campaign Finance Board precedent, it is not likely that a political subdivision would be considered to be the type of association that would be required to register a political fund through which to report its political spending. However, even if it was required to report political spending, the Board has concluded that it will not require registration and reporting by any association that has not spent more than \$5,000 to promote or defeat a ballot question. The information you have presented does not suggest that this threshold has been reached.

Thank you for your interest.

Gary Goldsmith

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Gary Goldsmith  
Executive Director  
Minnesota Campaign Finance and Public Disclosure Board  
(651) 539-1190  
[gary.goldsmith@state.mn.us](mailto:gary.goldsmith@state.mn.us)

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**From:** [m.wellens@mchsi.com](mailto:m.wellens@mchsi.com) [<mailto:m.wellens@mchsi.com>]  
**Sent:** Friday, August 31, 2012 9:17 PM  
**To:** Larson, Joyce (CFB)  
**Subject:** <http://www.cfboard.state.mn.us/Staff.htm> Campaign Finance Complaint

Greetings Ms. Larson,

My city council (Shorewood) has used its web page and newsletter to advocate on behalf of a ballot question. The preparation, printing and mailing of the newsletter would likely exceed the \$750 threshold. I believe this violates MN Campaign Finance Laws.

**I request the city of Shorewood be ordered to register and report their campaign activity with your organization.**

First, as your office should know, the MN Supreme Court recently ruled:

**Top state court rules campaign finance laws apply to schools**

- Article by: JENNIFER BROOKS , Star Tribune, August 11, 2012 - 1:14 AM
- <http://www.startribune.com/politics/statelocal/165810296.html>

“If a school district spends money and resources to promote a ballot issue, it should register and report that activity like any other political committee, the Minnesota Supreme Court ruled Friday.

The **unanimous** ruling left school districts in a quandary. They're required to provide the public with information about ballot questions, like how much it would cost taxpayers and what the money would be used for. **But districts don't have the authority to promote or advocate for ballot issues --** and filing a campaign finance report would be a sign that they've crossed the line to do just that....

.... **Under state law, committees that spend \$750 or more to promote a ballot question are subject to state campaign finance reporting requirements.”**

Second, a summary of the city’s action can be found here:

[http://www.ci.shorewood.mn.us/pages/newsletter/newsletter\\_sept2012.pdf](http://www.ci.shorewood.mn.us/pages/newsletter/newsletter_sept2012.pdf)

3<sup>rd</sup> page, right side under “Council Activities”.

It reads: “Reviewed, discussed and approved a resolution opposing the proposed Constitutional Amendment on Elections Voter ID, and encouraged residents to vote “No” on November 6, 2012.”

Resolution No. 12-051 reads: “A Resolution Opposing the Proposed Photo ID Constitutional Amendment Ballot Question.”

It passed 5-0. It is detailed in the city minutes of August 13, 2012, page 11.

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Thank you for your swift action on what appears to be open flaunting of our campaign finance law by five elected officials.

Sincerely,

Martin R. Wellens  
4755 Lakeway Terrace  
Shorewood, MN 55331-9367  
952/250-1658

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**Findings and Order in the Matter of the Complaint by  
Common Cause Minnesota regarding the Republican Party of Minnesota  
and Senator Dave Thompson**

**Review of the Complaint, Evidence Provided, and Response to Allegations**

**Background**

The Republican Party of Minnesota may appear as a single association, operating with one financial account, and disclosing all campaign activity on one report. That is not the case. The Republican Party of Minnesota has established and registered two separate political committees. The committee used to accept contributions and make expenditures to elect Republican state candidates and support other issues at the state level is the Republican Party of Minnesota State Committee (Republican State Committee). The Republican State Committee is registered with the Campaign Finance and Public Disclosure Board (the Board) and is regulated by the provisions in Minnesota Statutes Chapter 10A.

The committee used to accept contributions and make expenditures to elect Republican federal candidates and support other issues at the federal level is the Republican Party of Minnesota Federal Committee (Republican Federal Committee). The Republican Federal Committee is registered with the Federal Election Commission and is regulated by the Federal Election Campaign Act.

The allocation and reporting of the Republican Party's activities into the appropriate state or federal committee is more than a technicality because of the significantly different contribution and expenditure limits under which the two committees operate. A key issue raised in this complaint is if specified expenditures were disclosed on the appropriate state or federal committee report.

**The Complaint**

On May 22, 2012, the Board received a complaint from Mike Dean on behalf of Common Cause Minnesota (CCM) regarding the Republican State Committee and Senator Dave Thompson. Mr. Dean's complaint is largely based on the May 7, 2012, Report of the Republican Party of Minnesota Budget, Financial Controls and Oversight Committee. This report was issued after an internal review of the party's financial status. Part of the report reviewed significant payments made by the party, and provided this explanation of payments made to Senator Dave Thompson:

Dave Thompson entered into three separate contracts with RPM, one prior to his election to the Minnesota Senate in November 2010 and two after his election:

10/1/09 – 11/30/10 – Represent the RPM on radio, TV and other media outlets; participate in meetings and events for the RPM; train state and local candidates to deal with media, interviews, etc.; provide 50 hours per month. Fees - \$3,750/month

12/1/10 – 5/31/11 – Work with RPM staff and officers to raise money for the RPM; general communications and messaging issues, as requested;



train state and local candidates to deal with media, interviews, etc.; provide 50 hours per month. Fees - \$3,750/month.

8/1/11 – 7/31/12 – Work with RPM staff and officers to raise money for the RPM. Fees - \$1,000/month, plus 15% of money raised and no additional fees have been incurred or paid to Thompson during 2012.

Thompson was paid a total of \$70,568.56 from RPM pursuant to the above contracts. He had an outstanding invoice with RPM of \$7,700 as of December 2011. He has given that \$7,700 to the Party as an in-kind contribution.

Mr. Dean compares the oversight committee's statement of services provided by Senator Thompson with the financial reports filed by the Republican Federal and State Committees, and then alleges two violations of Minnesota Statutes Chapter 10A. In reference to the first alleged violation Mr. Dean states:

The memo clearly states that Sen. Thompson provided services to train "state and local candidates" from October, 2009 through May, 2011. However, these expenses for state campaign activity do not show up on any of the Republican Party of Minnesota state campaign finance reports for 2009, 2010, or 2011. The expenditure for Sen. Thompson does appear on the Republican Party of Minnesota Federal Election Commission report for 2009 – 2011. This represents a violation of Minn. Stat. §10A.20, subd. 3(g), which requires disclosure of all expenditures made to support state and local candidates by the Republican Party of Minnesota. ....In addition, any media relations work that Sen. Thompson provided to Republican Party of Minnesota on state campaign issues should also be recorded as an expenditure on state campaign finance reports. ...While the expenditures are still being disclosed on the federal report, allowing groups to move expenditures in such a way misrepresents the true financial picture of the state activities and still is a violation according to state law.

In explaining his second allegation Mr. Dean states:

The contract with Sen. Thompson also suggest that there is a violation of Minn. Stat. §10A.20, subd. 6(a) (which) requires independence between (a) party unit filing a report and a candidate for state office. ...It is clear that Sen. Thompson was both a paid consultant of the Republican Party of Minnesota and a candidate for state legislature in 2010 at the same time. This violates the state law because a candidate is forbidden from cooperating with an independent expenditure, regardless of which candidates the independent expenditure is supporting or opposing. Based on the Republican Party memo, Sen. Thompson did raise money that was used to run independent expenditures.

During the course of investigating a complaint the Board may choose to expand the inquiry to include issues not listed in the complaint. The Board expanded the scope of this investigation to examine two additional issues that may have resulted in violations of Chapter 10A.

The first issue was to examine the extent and nature of the services provided by Senator Thompson under the terms of the contracts. This examination was required to determine if work was actually provided as required by the contracts. If services were not actually provided, the payments may constitute an unreported contribution to Senator Thompson's principal campaign committee that would exceed the political party contribution limit. Alternatively, if services were not actually provided, the payments may represent a gift or an inducement to Senator Thompson to run for office. Use of party funds for those purposes would likely violate the provisions of Minnesota Statutes section 211B.12, which regulates the use of money raised by a political party. This statute is not under the Board's jurisdiction, but the Board may forward possible violations of Chapter 211B to the appropriate enforcement agency for review.

Secondly, the Board expanded the investigation to determine if services provided by Senator Thompson were in-kind donations to state level candidates, and if so, whether the value of the contributions exceed the applicable limit on such contributions from political party units.

The board notified Senator Thompson and the RPM of the complaint on June 7, 2012.

### **Response of the Republican Party of Minnesota**

By letter dated June 27, 2012, Bron Scherer, treasurer of both the Republican Party State and Federal Committees, responded to the complaint. Mr. Scherer also provided unsigned copies of the consulting contracts between the Republican Party and Senator Thompson. Mr. Scherer also responded to Board requests for information on the services provided by Senator Thompson under the terms of the contracts.

The response provides that the report by the Budget Financial Controls and Oversight Committee was inaccurate in its reference to the candidate services provided by Senator Thompson. Mr. Scherer states:

There was an apparent, inadvertent omission from this report with respect to the nature of candidates and Mr. Thompson's work for the RPM. This report referred to only "state and local" candidates, but in fact, Senator Thompson worked with US Congressional races (Lee Byberg-CD #7 and Randy Demmer-CD #1) as well. This was an oversight in the committee report in terms of being more specific in this regard.

In response to Board questions about documentation of fundraising activities conducted by Senator Thompson under the terms of the contracts Mr. Scherer's response provided that Senator Thompson raised \$25,000 in contributions to the RPM in 2011. Ten thousand dollars of that amount was deposited in the Republican Federal Committee account, and fifteen thousand dollars into the Republican State Committee account. The response also provided copies of seventeen emails sent in 2011 between Senator Thompson and Ron Huettl, Finance Director for the Republican State and Federal Committees, and Jeanette Purcell, who at the time was the Major Donor Director for the Republican Party. The emails state that Senator Thompson was making contacts with potential donors to the Republican Party, and was trying to coordinate those activities with Republican Party staff.

In response to a Board question asking for a list of state candidates who either attended the training sessions conducted by Senator Thompson, or state candidates who may have received media services directly from Senator Thompson, Mr. Scherer responded:

We do not have lists of names and addresses of training session attendees, information sessions or other meetings of any kind at which Senator Thompson provided services to the RPM or candidates.

Mr. Scherer was also unable to provide a list of occasions when Senator Thompson may have represented the Republican Party before media outlets, or occasions when Senator Thompson provided services related to media relations. In explaining the lack of records for the services performed under the terms of the contracts Mr. Scherer states:

To the extent we are not able to provide information requested for various items above, we reiterate that Senator Thompson was hired by RPM personnel who are no longer affiliated with the RPM. We have used our best efforts to comply with the information requested based upon the written records available to us.

### **Response of Senator Thompson**

Senator Thompson responded to the complaint on July 10, 2012, and then supplemented his response with additional information by email on August 16, 2012. Senator Thompson documented the work provided under the terms of the contract by providing:

- copies of the three contracts under which work was performed for the RPM
- a copy of the Power Point presentation used at candidate training sessions
- copies of reports to the Republican Party on the results of four trips Senator Thompson made in 2010 during which he visited newspapers and radio stations in greater Minnesota
- copies of press releases Senator Thompson wrote which were released under the name of former Republican Party Chairman Tony Sutton
- copies of press releases, position papers, radio add scripts, and candidate speeches for the Lee Byberg and Randy Demmer congressional campaigns.

In response to a request for a list of who attended the candidate training sessions Senator Thompson responded that, "I have none of this information. I suspect the Party may have these records."

In response to a request for a list of occasions on which he represented the Republican Party before a media outlet Senator Thompson responded that, "I did not keep track of these formally. I would typically receive a call and be asked to appear. Most of the work I did involved speaking, writing, and working with candidates on media presentations."

In his email of August 16, 2012, Senator Thompson provided a timeline on how the three contracts came about, an explanation of the services provided under the contracts and the timing of his decision to run for the office of state senate. Senator Thompson stated,

In July 2009, then RPM Chairman Tony Sutton and I met to discuss a possible arrangement for me to do independent contract work with the RPM. Mr. Sutton was interested in having me work with candidates on media issues. I hosted a radio show for over ten years and also had extensive experience as a television commentator. We continued to talk over the next several weeks, and ultimately entered into a contract that ran from October 1, 2009, through November 30, 2010.

It was not until February 2010 that I learned Senator Pat Pariseau was contemplating retirement. Senator Pariseau did not make her decision until late February, at which time I decided to seek the open seat. My recollection is that I formed my candidate committee on Monday, February 22, 2010, just five days before the February 27 endorsing convention.

During the 2010 election cycle I worked extensively with Congressional candidates as well as candidates for the Minnesota Legislature. I have provided the Board with a vast amount of paperwork I generated. I also spoke at numerous candidate training sessions. Some of the groups were large, and some were very small.

My first contract expired November 30, 2010. The RPM decided to give me a six month contract commencing December 1, 2010. Obviously I was not a candidate for office when my second contract started.

At the expiration of my second contract, Mr. Sutton felt the need for media work was less, but was interested in having me raise funds for the RPM. He told me he would need me to demonstrate the ability to raise money before signing me on another deal. I was able to raise \$25,000 in a relatively short period of time, so I was given a third contract that commenced August 1, 2011.

I did do a few meetings for the RPM in the fall and early winter of 2011. However, they did not use me extensively to sit on fund raising meetings.

Shortly after learning of the RPM's financial problems in late 2011, I agreed to step away from my contract, even though it ran through July 2012.

To clarify the relationship of the \$25,000 in fundraising to the contracts, Senator Thompson also stated:

You may notice that the money I raised for the Party came in during a two month period (June and July 2011) when I was not under contract. Mr. Sutton wanted me to show some ability to raise money before signing me to the August 1, 2011 contract. So I literally engaged in some fund raising activities while I was not being paid. This resulted in the \$25,000 contribution. As stated above, I took no commission.

## **Board Analysis**

### **Reporting of Payments to Senator Thompson**

The complaint states that the payments to Senator Thompson for services rendered under the consulting contracts are reported only on the Republican Federal Committee reports for the years 2009 through 2011. This statement is incorrect for 2011. The 2011 Republican State Committee year-end Report of Receipts and Expenditures shows a payment to the Republican Federal Committee on September 21, 2011, in the amount of \$4,800 for reimbursement of payments made by the federal committee to Senator Thompson for "Consulting Retainer." In other words, the Republican State Committee paid its share of the 2011 consulting contract by paying the Republican Federal Committee, rather than by paying Senator Thompson directly.

Mr. Dean's statement is accurate for 2009 and 2010. For those two years payments to Senator Thompson appear only on the Republican Federal Committee reports. This appears to be inaccurate because under the terms of the consulting service contracts for 2009 and 2010 Senator Thompson was to provide media relation training to state and local candidates.

However, to correctly allocate the payments made to Senator Thompson between the Republican Federal and State Committees requires detailed records of the all work provided under the contract. From the responses received, it is clear that neither Senator Thompson nor either committee of the Republican Party have records sufficient for a meaningful allocation of costs.

For example, Senator Thompson did provide a copy of the slide show used at the training sessions for state and local candidates. The board accepts that training sessions occurred. But records that detail the number of sessions, how long the sessions lasted, or who attended the sessions, do not exist.

Similarly, there is little basis on which to allocate the time spent by Senator Thompson developing media contacts. The work would presumably benefit both federal and state candidates, and therefore a portion of the cost could be allocated to both the Republican State and Federal Committees. But again, records on the amount of time spent developing media contracts, or in representing the Republican Party to the media, are too incomplete and insufficient to be the basis for an allocation of costs to each of the committees.

As noted in Senator Thompson's statements, the \$25,000 raised for the Republican Party by Senator Thompson occurred when he was not under contract; therefore it is not relevant in determining allocating fundraising services. The fundraising efforts that occurred under the third contract did not come to fruition, and there is no indication how the party would have deposited funds raised by the Senator if donations had been secured. This again leaves no basis on which to allocate payments made to Senator Thompson between the Republican State and Federal Committees.

Senator Thompson did provide copies of the press releases, speeches, and other written documents he developed under the terms of the contracts. Of these, 173 were press releases, position papers, speeches, or other materials that were for use by federal candidates or dealt with federal issues. Ten documents provided by Senator Thompson were for the 2010 gubernatorial election, and an additional five were position papers that could be used for either state or federal purposes. Not only in number, but also in terms of length of the documents, the great majority of the material produced by Senator Thompson in 2010 was for two federal campaigns and therefore allocable to the Republican Federal Committee. But even here, with a better record of material produced, there are allocation problems. The records provided are not a basis on which to determine the percentage of time spent on document creation compared to candidate training or media relations or other services provided under the contract.

In findings issued on July 13, 2012,<sup>1</sup> the Board concluded an investigation regarding the 2010 gubernatorial election recount and its financing, and of revelations made by the Republican Party that it had unpaid obligations that were not reported to its executive committee or on the reports of the Republican State or Federal Committees. The findings examined the financial

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<sup>1</sup> Complaint of Common Cause Minnesota Regarding the Republican Party of Minnesota and Others, [http://www.cfboard.state.mn.us/bdinfo/investigation/07\\_13\\_2012\\_RPM\\_and\\_Others.pdf](http://www.cfboard.state.mn.us/bdinfo/investigation/07_13_2012_RPM_and_Others.pdf)

record keeping by the Republican Party and found that it did not meet the requirements of Minnesota Statutes section 10A.025, subdivision 3. This statute provides in part that:

A person required to file a report or statement must maintain records on the matters required to be reported, including vouchers, canceled checks, bills, invoices, worksheets, and receipts, that will provide in sufficient detail the necessary information from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness...

Part of this finding looked at the records available on which to base an allocation of expenses in 2010 between the Republican State Committee and the Republican Federal Committee and concluded:

The requirement to maintain worksheets necessary to explain the data on a report, or data that was left off of a report, is important. Worksheets are particularly important for an association that is registered both as a state party unit and a federal political committee. Without adequate work papers, determination of how and why expenditures were divided between state and federal reports will be next to impossible.

The conclusion reached in the present finding regarding the division of joint expenditures between the Republican State and Federal Committees is the same as stated above; using the records available, the task is next to impossible. Currently the payments to Senator Thompson are reported on the Republican Federal Committee reports. The Board believes that some of the work performed by Senator Thompson benefited state candidates and the Republican State Committee. Normally, the Board would order the Republican State Committee to amend the 2009 and 2010 reports to correct the reporting error. As provided in Minnesota Statutes section 10A.025, subdivision 4, filing an amendment within ten business days of being notified of the need to amend clears an omission in a previously filed report.

But in this case the records and worksheets needed to determine the content of the amendments to the 2009 and 2010 Republican State Committee reports do not exist. An amendment would at best provide an arbitrary change, and would not serve to improve the disclosure of the committee's financial activities. The Board will not order the committee to make a meaningless amendment. Instead, the Board will rely on these findings to serve as the public record that the Republican State Committee reports for 2009 and 2010 should have disclosed some expenditure for the contracted services provided by Senator Thompson.

### **The Allegation that Senator Thompson's Contract Violated Provisions on Independent Expenditures**

There is no evidence to support the allegation of Mr. Dean's complaint regarding coordination of independent expenditures. Mr. Dean's claim that a candidate cannot cooperate with a party unit that makes independent expenditures, even when the party's independent expenditures do not benefit that candidate, is not an accurate statement of the law applicable to independent expenditures. A candidate cannot cooperate with a political party on an independent expenditure that benefits the candidate. However, a candidate may cooperate with the political party on other matters affecting that candidate unrelated to independent expenditures.

The allegation that Senator Thompson raised money that was used for independent expenditures may have represented a violation of Chapter 10A if there was evidence that the money was used to finance an independent expenditure in support of Senator Thompson.

However, in 2010 the Republican State Committee did not make independent expenditures in support of Senator Thompson. Senator Thompson raised money for the Republican State Committee in 2011, but the money was raised outside of the consulting contracts. Additionally, the Republican Party made no independent expenditures on any candidate during that year.

### **Services Provided Under the Consulting Contracts**

As explained earlier in these findings the Board asked for documentation of the work done under the terms of the contracts in order to insure that the payments made to Senator Thompson were accurately reported. The volume of written material provided by Senator Thompson and the reports of media contacts made on behalf of the Republican Party is sufficient to substantiate that the payments were for services rendered, and were not a gift or a contribution to the Senator's campaign committee.

### **In-Kind Donations to State Level Candidates**

The Board examined this issue because candidate training, if provided by an individual who is compensated for their time, is a service of value that is an in-kind donation to the candidate. In-kind donations are reportable by the donating committee, in this case the Republican State Committee, and by the committees of the candidates who received the training if the value of the service exceeds twenty dollars. In-kind donations that exceed twenty dollars count against the political party contribution limit of each candidate. For state senate and state representative candidates the aggregate political party contribution limit in 2010 was \$5,000.

The Board did not attempt to determine the exact fair market value of the training provided by Senator Thompson, but concludes that the value exceeds the \$20 threshold. The training relied on the media expertise of Senator Thompson, was formalized in a Power Point presentation, and would have been of direct benefit to the election efforts of the candidates who attended the training. Records on the length of the training sessions were not provided, but from the Board's own experience with training sessions it appears that the material could have been covered in approximately one hour.

The Board concludes that in at least 2010, the Republican State Committee report is missing disclosure of in-kind donations (candidate training) to some number of state candidates. As discussed earlier in these findings there are no records showing how many or which candidates attended the training sessions. Again, the Board will not require the filing of an amended report to show an arbitrary number that has no basis in fact. Instead, the Board will rely on these findings to document that the candidate training sessions provided by Senator Thompson were in-kind donations to the candidates in attendance.

### **Violation of Minnesota Statutes section 10A.025, subdivision 3**

As reviewed earlier in these findings the failure to maintain sufficient records and worksheets to justify, verify, explain and ensure the accuracy of reports filed with the Board is a violation of Minnesota Statutes section 10A.025, subdivision 3. The treasurer of a committee that knowingly violates this statute is guilty of a misdemeanor. As determined in the July 13, 2012, findings regarding the Republican Party there is no evidence to support a finding that the Republican Party treasurer at the time knowingly violated this statute.

In its findings of July 13, 2012, the Board thoroughly discussed the various shortcomings found in the Republican Party financial record keeping. The Board will not use the present findings to duplicate the finding of violations related to record keeping already provided in July.

The Board instead reiterates that it will continue to work with current Republican Party officers in their efforts to generate accurate reports, and that the Board will continue to examine the issue

of allocating and reporting costs that benefit both the Republican State and Federal Committees.

**Based on the above Review and Analysis and the Relevant Statutes, the Board makes the following:**

### **Findings**

1. There is probable cause to believe that some portion of the contracted services provided by Senator Thompson in 2009 and 2010 were of benefit to the Republican State Committee.
2. There is probable cause to believe that some portion of the payments made to Senator Thompson under the terms of the 2009 and 2010 consulting contracts were reportable by the Republican State Committee but were omitted from the relevant reports in violation of Minnesota Statutes section 10A.20, subdivision 3 (g).
3. There is probable cause to believe that the candidate trainings provided by the Republican State Committee under the terms of the consulting contracts with Senator Thompson were reportable in-kind donations to the state candidate committees in attendance.
4. There is probable cause to believe that the in-kind donation of candidate trainings were not reported by the Republican State Committee in violation of Minnesota Statutes section 10A.20, subdivision 3 (k).
5. There is probable cause to believe that records do not exist that will allow the Republican Party State Committee to accurately amend its reports as provided in Minnesota Statutes section 10A.025, subdivision 4, to disclose payments to Senator Thompson for contracted services, or to report candidate training sessions as in-kind donations to the candidates in attendance.
6. There is no probable cause to believe that the Republican State Committee or Senator Thompson cooperated on independent expenditures, or violated the provisions of Minnesota Statutes section 10A.20, subdivision 6a.
7. There is no probable cause to believe that the payments to Senator Thompson under the terms of the consulting contracts were contributions to Senator Thompson's campaign committee or gifts to Senator Thompson.

**Based on the above Findings, the Board issues the following:**

### **Order**

The record in this matter and all correspondence is hereby entered into the public record in accordance with Minnesota Statutes, section 10A.02, subdivision 11. This matter is closed.

Dated: October 2, 2012

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Greg McCullough, Chair  
Campaign Finance and Public Disclosure Board



## **Relevant Statutes**

### **Minnesota Statutes section 10A.01**

Subd. 13. **Donation in-kind.** "Donation in-kind" means anything of value that is given, other than money or negotiable instruments. An approved expenditure is a donation in-kind.

### **Minnesota Statutes section 10A.025**

Subd. 4. **Changes and corrections.** Material changes in information previously submitted and corrections to a report or statement must be reported in writing to the board within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy. The change or correction must identify the form and the paragraph containing the information to be changed or corrected.

A person who willfully fails to report a material change or correction is guilty of a gross misdemeanor and is subject to a civil penalty imposed by the board of up to \$3,000.

The board must send a notice by certified mail to any individual who fails to file a report required by this subdivision. If the individual fails to file the required report within ten business days after the notice was sent, the board may impose a late filing fee of \$5 per day up to \$100 starting on the 11th day after the notice was sent. The board must send an additional notice by certified mail to an individual who fails to file a report within 14 days after the first notice was sent by the board that the individual may be subject to a civil penalty for failure to file a report. An individual who fails to file a report required by this subdivision within seven days after the second notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

### **Minnesota Statutes section 10A.20**

Subd. 3. **Contents of report.** (a) The report must disclose the amount of liquid assets on hand at the beginning of the reporting period.

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in-kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in-kind. A donation in-kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

(c) The report must disclose the sum of contributions to the reporting entity during the reporting period.

(d) The report must disclose each loan made or received by the reporting entity within the year in aggregate in excess of \$100, continuously reported until repaid or forgiven, together with the name, address, occupation, and principal place of business, if any, of the lender and any endorser and the date and amount of the loan. If a loan made to the principal campaign committee of a candidate is forgiven or is repaid by an entity other than that principal campaign committee, it must be reported as a contribution for the year in which the loan was made.

(e) The report must disclose each receipt over \$100 during the reporting period not otherwise listed under paragraphs (b) to (d).

(f) The report must disclose the sum of all receipts of the reporting entity during the reporting period.

(g) The report must disclose the name and address of each individual or association to whom aggregate expenditures, including approved expenditures, have been made by or on behalf of the reporting entity within the year in excess of \$100, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office must allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.

(h) The report must disclose the sum of all expenditures made by or on behalf of the reporting entity during the reporting period.

(i) The report must disclose the amount and nature of an advance of credit incurred by the reporting entity, continuously reported until paid or forgiven. If an advance of credit incurred by the principal campaign committee of a candidate is forgiven by the creditor or paid by an entity other than that principal campaign committee, it must be reported as a donation in-kind for the year in which the advance of credit was made.

(j) The report must disclose the name and address of each political committee, political fund, principal campaign committee, or party unit to which contributions have been made that aggregate in excess of \$100 within the year and the amount and date of each contribution.

(k) The report must disclose the sum of all contributions made by the reporting entity during the reporting period.

(l) The report must disclose the name and address of each individual or association to whom noncampaign disbursements have been made that aggregate in excess of \$100 within the year by or on behalf of the reporting entity and the amount, date, and purpose of each noncampaign disbursement.

(m) The report must disclose the sum of all noncampaign disbursements made within the year by or on behalf of the reporting entity.

(n) The report must disclose the name and address of a nonprofit corporation that provides administrative assistance to a political committee or political fund as authorized by section 211B.15, subdivision 17, the type of administrative assistance provided, and the aggregate fair market value of each type of assistance provided to the political committee or political fund during the reporting period.

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**Findings and Order in the Matter of the Complaint of Common Cause Minnesota  
regarding Minnesota for Marriage**

**The Complaint**

On February 22, 2012, the Campaign Finance and Public Disclosure Board received a complaint from Common Cause Minnesota (CCM) signed by Mike Dean, its Executive Director, regarding Minnesota for Marriage (MFM). The complaint alleges that:

MFM filed a false report with the Campaign Finance and Public Disclosure Board by not itemizing and disclosing the names of all individuals who contributed more than \$100 to MFM's campaign in support of the Marriage Amendment.

In support of this claim, CCM provided evidence that MFM and another association, Minnesota Family Council, sent out various electronic mail messages and maintained websites between May, 2011, and December 31, 2011, encouraging donations to MFM.

CCM points out that on MFM's 2011 report, MFM reported total contributions of \$830,109.33 and that this total included only seven contributions of more than \$100 from individuals and only \$2,119 in unitemized contributions of \$100 or less. The remaining contributions came from three associations with political funds registered with the Board.

CCM also points out that an allegedly similar association raised much more money from individual donors than did MFM. CCM also cites a 2011 MFM statement indicating that it had 10,000 volunteers for its campaign.

Based on these assertions, CCM makes the following statement:

Although it is possible that one side's grassroots support is much stronger than the other's, it stretches all credibility that grassroots support for the Marriage Amendment is less than one percent of its opposition. Simply put, the MFM Report fails to pass the smell test.

After reviewing its assessment of MFM's fundraising efforts and recapping the low number of original donors, CCM says:

These numbers lead to one of two conclusions: (1) either MFM's support is startlingly weak, contrary to its claims of broad-based support; or (2) MFM violated the campaign finance laws by failing to report required contributor information or by redirecting contributors to an intermediary organization for the purpose of avoiding required disclosures.

The Board understands the second possible conclusion quoted above to be CCM's statement of the two alternative violations of which it complains: (1) that that MFM failed to report all contributions as required by Minnesota Statutes section 10A.20 or (2) that MFM violated

Minnesota Statutes section 10A.29, which provides that a committee may not circumvent Chapter 10A by redirecting contributions through others.

In support of its allegation that MFM circumvented Minnesota's disclosure statutes by directing contributions through other associations, CCM says:

If MFM's public support is as strong as it has claimed on its website and in public statements then the sheer absence of individual contributions begs another question: Has MFM circumvented Minnesota's disclosure laws by directing contributors to make donations to one of MFM's supporting organizations, which are unregistered associations under Minnesota law.

. . .

Again, the circumstances here are so suspicious it is imperative that the Board use its investigative authority to inquire further . . .

CCM also claims that the alleged omission of contributions from MFM's report was intentional, resulting in a violation of Minnesota Statutes section 10A.025, which relates to certifying reports as true.

### **Acceptance of the Complaint for Investigation**

When a complaint is received by the Board, the Executive Director, acting under delegated authority, may accept or reject the complaint or bring the matter to the Board for decision. Complaints that state a clear violation of Minnesota Statutes Chapter 10A and that are supported by factual allegations that, if true, would result in a violation are accepted by the Executive Director. Complaints that are unsigned, are too vague, do not state a Chapter 10A violation, or are frivolous, may be rejected by the Executive Director. Complaints that do not clearly fall into either category are typically brought to the Board for acceptance or rejection.

CCM's complaint alleged violations of Chapter 10A and was signed and was clear, but it contained virtually no factual allegations to support the legal conclusion that MFM had violated Chapter 10A. As a result, the Executive Director brought the matter to the Board to consider whether the complaint was so devoid of factual allegations as to be frivolous and not sufficient to require an investigation.

At its meeting of March 6, 2012, the Board considered whether an investigation of the complaint was required. The Board noted that in the complaint, CCM asserted that associations that are as active and have as many supporters as MFM tend to raise more money from individuals than MFM did in 2011. In support of this assertion, CCM provided a specific example.

The Board recognizes that no two political committees are the same. Thus, a single, particular, example is of little or no relevance in proving that MFM was more successful in fundraising than disclosed on its report. However, Board records show that, in general, associations addressing major issues and having thousands of supporters usually receive more than seven contributions of more than \$100 and would likely raise more than \$2,000 in unitemized contributions.

After its review of the matter, the Board did not vote to reject the complaint. As a result, the Executive Director commenced the investigation under the mandate of Minnesota Statutes section 10A.02, subdivision 11.

## **Board Analysis**

CCM's complaint alleges three violations: (1) failure to report all contributions; (2) certifying a report as true with the knowledge that it omitted required information; and (3) circumvention of Chapter 10A. To find that the second alleged violation occurred, the Board would have to find probable cause to believe that MFM's 2011 filed report did, in fact, omit required information.

### **Failure to report all contributions**

The Board's investigation of MFM's income and reporting included a request for MFM's 2011 bank records and a request that MFM analyze those records to show how they reconciled to its 2011 year-end report. In response, MFM provided all of its 2011 bank statements for review by Board staff. It also provided worksheets showing how those statements reconciled to its 2011 report. MFM also provided a sworn affidavit of John Helmberger, its treasurer, stating that the bank records provided by MFM included all of the contributions received by the political committee in 2011.

The review of MFM's records was conducted by two Board staff members and consisted of matching bank deposits to receipts disclosed on MFM's 2011 report. This inspection showed that all deposits into MFM's bank account were reflected on its 2011 year-end report.

There is no evidence that MFC maintained additional bank accounts or that it kept contributions on hand without depositing them. Consequently, there is no evidence to support a finding that MFM failed to report all contributions received in 2011 on its year-end report. This conclusion leads to the further result that with respect to reporting contributions, MFM did not certify its report as true with the knowledge that it omitted required information.

### **Circumvention of the disclosure requirements of Chapter 10A**

The lack of evidence or factual allegations in support of CCM's claim of circumvention is even more problematic than it is with the claim that MFM omitted receipts from its 2011 report. The allegation of omitted contributions is generally supported by Board records suggesting that associations similar to MFM have more success in fundraising from individuals. In other words, large, active, associations tend to raise significant amounts from individual donors. However, there is no support in Board records for the presumption that when a ballot question political committee raises more money from other associations than it does from individuals, the reason is that the recipient is redirecting contributions through those other associations.

In a request dated August 22, 2012, MFM asks the Board to review the sufficiency of the circumvention claim and asks that the Board dismiss that claim based on lack of sufficient support in the complaint to justify proceeding. Because the Board accepted the complaint as a whole and, in doing so, did not separately review the sufficiency of the complaint with respect to each alleged violation, it undertakes that review now with respect to the circumvention claim.

With its complaint, CCM provided copies of the 2011 year-end reports of receipts and expenditures submitted by MFM and by three nonprofit corporations that made significant contributions to MFM through their political funds. These three associations are identified on MFM's website as supporting its efforts and have previously been identified as part of a coalition that formed MFM.

These reports prove only that MFM raised little from individuals and raised several hundred thousand dollars from three of its primary affiliated associations. Without more, these reports do not provide evidence that a plan of circumvention exists.

CCM also makes a number of statements about MFM, including the following:

MFM is the leading coalition of groups and individuals who support the proposed marriage amendment. MFM has registered [as] a political committee with the Board to receive contributions and make expenditures in support of the amendment.

MFM maintains a public website at [www.minnesotaformarriage.com](http://www.minnesotaformarriage.com).

MFM claims to have the support of a broad range of organizations and individuals . . .

MFM . . . claims that in 2011 it generated incredible, broad-based citizen support by recruiting over 10,000 volunteers for its campaign.

MFM also makes material available on its website that is intended to generate financial and volunteer support for its campaign. For example, MFM's website includes instructions on how individuals should host house parties to support its campaign. These instructions advise the hosts of such parties not to accept cash donations, but to accept and collect donation checks from guests and send them to MFM.

MFM's website also makes volunteer cards available, which invite responders to indicate whether they can help the campaign by hosting a house party or by making a financial contribution to the campaign.

The contribution page of MFM's website invites individuals to contribute in increments of various amounts, including \$100, \$250, \$500 or \$1,000. The contribution page also informs contributors that aggregate contributions of \$100 or more must be reported to the state. (The Board notes that this is a misstatement of the law. Contributions of *more than* \$100 must be itemized on reports.)

None of these statements provides support for the allegation that a plan to circumvent the disclosure requirements of Chapter 10A is being implemented. In fact, these statements indicate that MFM has in place electronic contribution systems and house party procedures that will result in donors making contributions directly to MFM, ruling out the possibility of circumvention for those donors.

In addition to the statements quoted above, CCM provided a series of email communications sent by either Minnesota Family Council (MFC) or the MFC Protection Fund in 2011 soliciting financial contributions and volunteers for MFM's pro-amendment campaign. CCM acknowledges that the embedded links in the email communications direct interested persons to the donation page on the MFM website. The fact that MFC is soliciting money for MFM by linking directly to the MFM donation web page also rules out circumvention for those donors.

CCM apparently acknowledges that its claim of a circumvention violation is not supported by its allegations, as it frames its summary of the circumvention claim in terms of a qualifying condition and a question:

If MFM's public support is as strong as it has claimed on its website and in public statements then the sheer absence of individual contributions begs another question: Has MFM circumvented Minnesota's disclosure laws by directing contributors to make donations to one of MFM's supporting organizations, which are unregistered associations under Minnesota law.

CCM further acknowledges that it is possible that MFM was unsuccessful in fundraising in 2011 and that CCM's allegations are based primarily on speculation:

Although it is possible that one side's grassroots support is much stronger than the others, it stretches all credibility that grassroots support for the marriage amendment is less than one percent of its opposition. Simply put, the MFM report fails to pass the smell test."

To assert that an association's activities do not pass "the smell test" is to acknowledge that the complainant has no actual evidence but, rather, relies on suspicion as the basis for the complaint. Suspicion alone is insufficient to compel a Board investigation.

The Board has broad authority to inquire into the financial operations of associations that attempt to influence elections in Minnesota. Under Minnesota Statutes section 10A.02, subdivision 10, the Board may audit and investigate any statement or report filed with it. It may also investigate any alleged violation of Minnesota Statutes Chapter 10A, whether the allegation is in a written complaint or not. It must, with limited exceptions, investigate violations alleged in written complaints. The legislature has seen fit to augment the Board's investigative power by giving it the authority to issue subpoenas and to have those subpoenas enforced by the Ramsey County District Court.

It is in the public interest that the Board have the ability to ensure complete and accurate disclosure of money raised or spent to influence the nomination or election of candidates or to promote or defeat a ballot question. In some cases, the Board may not have direct evidence of a violation until after it begins an investigation. Therefore, it is necessary that the Board be able to conduct its investigations without first having to establish the very violation being investigated.

However, in the case of a complaint filed by a third party, Minnesota Rules Part 4500.0200 provides that the Board is not required to investigate a complaint that is frivolous. The threshold for not being frivolous is low, but something more than pure suspicion is required. The Board concludes that with respect to its circumvention claim, CCM has not met the threshold necessary to require a Board investigation.

### **Findings**

Based on the record in this matter, the Board makes the following findings:

1. There is no probable cause to find that Minnesota for Marriage failed to report any contributions on its 2011 report of receipts and expenditures.

2. Based on Finding 1, there is no probable cause to find that Minnesota for Marriage intentionally omitted required information from a filed report.
3. The complaint of CCM that MFM and others engaged in circumvention is not supported by sufficient factual allegations to require a Board investigation.

### **Order**

Based on the above finding, the Board issues the following order:

1. The Board investigation of the complaint that MFM omitted contributions from its 2011 report and falsely certified that report is concluded.
2. The complaint that MFM and others engaged in circumvention of Minnesota Statutes Chapter 10A is not supported by factual allegations sufficient to require a Board investigation and is dismissed.
3. The record of this investigation is hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11.

Dated: October 2, 2012

\_\_\_\_\_  
Greg McCullough, Chair  
Campaign Finance and Public Disclosure Board



### Relevant statutes

**Minn. Stat. § 10A.025, subd. 2. Penalty for false statements.** A report or statement required to be filed under this chapter must be signed and certified as true by the individual required to file the report. The signature may be an electronic signature consisting of a password assigned by the board. An individual who signs and certifies to be true a report or statement knowing it contains false information or who knowingly omits required information is guilty of a gross misdemeanor and subject to a civil penalty imposed by the board of up to \$3,000.

**Minn. Stat. § 10A.20, subd. 3. Contents of report. . . .**

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

**Minn. Stat. § 10A.29. Circumvention prohibited.**

An individual or association that attempts to circumvent this chapter by redirecting a contribution through, or making a contribution on behalf of, another individual or association is guilty of a gross misdemeanor and subject to a civil penalty imposed by the board of up to \$3,000.

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**Findings and Order in the Matter of the Complaint  
by Common Cause Minnesota regarding Dan McGrath and Minnesota Majority**

**Review of the Complaint, Evidence Provided, and Response to Allegations**

**The Complaint**

On July 11, 2012, the Campaign Finance and Public Disclosure Board (the Board) received a complaint from Mike Dean on behalf of Common Cause Minnesota (CCM) regarding Dan McGrath and Minnesota Majority, Inc. In the complaint Mr. Dean states:

This complaint alleges that Mr. McGrath failed to register as a lobbyist in Minnesota and Minnesota Majority failed to register as a principal lobbying group, thus requiring both to disclose the amount of money they spent in 2010 through 2012 on lobbying efforts to influence legislative action at the Minnesota legislature. Both parties are required to file a report because as an individual and as an organization they engaged in an effort to influence legislative action.

**Evidence Regarding Minnesota Majority**

In support of these allegations Mr. Dean references the Minnesota Majority website ([www.minnesotamajority.org](http://www.minnesotamajority.org)) and points out that the association's mission statement on the website includes "to promote traditional values in state and federal public policy through grassroots activism on the part of its members." The website also states that one of the purposes for which Minnesota Majority was founded is "influencing the legislative process."

Mr. Dean references a section of the website that encourages individuals to become members of Minnesota Majority because "Minnesota Majority keeps you informed of important public policy issues that affect you and your family, and equips you with tools that allow you to easily weigh-in on the issues with your elected officials. Our goal is to allow our members to get informed and take action in 5 minutes or less."

Individuals who sign up to be members of the association receive "Minnesota Majority Action Alerts" which are e-mails that encourage the recipient to contact elected officials and ask the official(s) to support or oppose a particular issue. The Action Alerts describe an issue before the legislature and then provide an automated way for an individual to email a state representative, state senator, or in one example, the Governor's office. In some cases the Action Alerts provide sample language to use in urging the elected official to take action on the issue. Mr. Dean provided website addresses for four Action Alerts on the Minnesota Majority website. In describing the Action Alerts Mr. Dean states:

...Minnesota Majority's website requests that supporters contact their legislators on key issues throughout the year. This website urged supporters to contact their legislators in support of the constitutional amendment on voter ID, support the Employee Freedom Amendment, petition lawmakers to oppose taxpayer funded abortions, and to support immigration enforcement. There is other content on the website that also urges supporters to contact legislators in support of legislation that was before the Minnesota legislature.

### **Evidence Regarding Dan McGrath**

With his complaint Mr. Dean provided a copy of an affidavit submitted by Dan McGrath to the Minnesota Supreme Court regarding litigation on the voter identification constitutional amendment. The affidavit is used to support Mr. Dean's contention that Dan McGrath and Minnesota Majority engaged in lobbying activities. In particular, Mr. Dean points to the following two statements from the affidavit:

Minnesota Majority began working with Representative Mary Kiffmeyer to construct and promote the 21st Century Voter ID Bill (S.F. No. 509) in November 2010. Minnesota Majority representatives testified at the House Government Operations and Elections Committee hearing, the House State Government Finance Committee, the House Ways and Means Committee, the Senate Local Government and Elections Committee, the Senate Finance Committee, the Senate Rules Committee and other legislative committees in favor of the bill. It also met with legislators to provide expert advice and research for the legislation...

Soon after the Governor's veto, Minnesota Majority began working with Representative Kiffmeyer on a voter identification Constitutional Amendment, which provides for Voter ID requirements similar to the 21st Century Vote ID bill. In addition to meeting with senators and representatives to consult on the Amendment, Minnesota Majority testified at the Senate Finance Committee and the Senate Committee on State Government Innovation and Veterans hearings in favor of the Amendment.

In summary of these two portions of the affidavit Mr. Deans states, "Both of these statements show how Mr. McGrath and Minnesota Majority have engaged in lobbying activities in Minnesota over the past two years."

As evidence that Mr. McGrath was compensated for his lobbying efforts by Minnesota Majority Mr. Dean provided a copy of the IRS tax forms 990 and 4562 filed by Minnesota Majority for calendar year 2010. In reference to these documents Mr. Dean states:

Dan McGrath is the executive director of Minnesota Majority. According to IRS 990 tax records, Mr. McGrath is not listed as an employee... However, the organization does list \$48,972 in professional services/consultants on the organization's 2010 form 990.

The complaint also alleges that Mr. McGrath was required to register as a lobbyist because of expenditures he made. Mr. Dean states:

During the past year and likely beyond that time frame, Mr. McGrath has spent more than \$250 for the purpose of attempting to influence legislative action. This expense occurred through the expenses associated with the development of a video that was presented to legislators in support of the Voter ID legislation and amendment. Common Cause Minnesota does not have the official invoice for this expense, but videos of this kind cost over \$250 to develop. In addition, Minnesota Majority paid over \$250 for the email communication system to urge members to support various pieces of legislation.

In summary of his complaint Mr. Dean states:

Mr. McGrath of Minnesota Majority has failed to register as a lobbyist with the Minnesota CFDB, which is a violation of Minn. Stat. §10A.01, subd. 21. As the Executive Director of the organization, Mr. McGrath has lobbied the legislature extensively as described in his affidavit to the Minnesota Supreme Court. In a review of the organization's website, this issue appears to be the top priority of the organization and it is clear that he spends a majority of his time advocating for voter ID at the legislature as described in the signed affidavit. Finally, Mr. McGrath was likely paid around \$50,000 as executive director and he spent a significant amount of time lobbying the legislature in support of the amendment, by his own admission. That amount exceeded the \$3,000 threshold that is required for an individual to register as a lobbyist.

The board notified Mr. McGrath of the complaint on August 1, 2012. Mr. McGrath was asked specific questions about the affidavit he submitted to the Minnesota Supreme Court and his duties for Minnesota Majority, and also provided an opportunity to respond to the complaint's allegations concerning his activities, or the activities of Minnesota Majority.

### **Response of Dan McGrath and Minnesota Majority**

#### **Compensation Paid to Dan McGrath**

The initial response to the complaint was in a letter dated August 15, 2012, from Kaylan Phillips, attorney with the Act Right Legal Foundation, on behalf of both Dan McGrath and Minnesota Majority. Attached to Ms. Phillips' response was a lobbyist registration for Mr. McGrath representing Minnesota Majority. The registration was dated August 4, 2012. Ms. Phillips stated that the registration was submitted "in order to expedite resolution of this matter", and that she would contact the Board for information on how to submit the required lobbying reports.

Board staff contacted Ms. Phillips to determine if the lobbyist registration was intended to cover the years referenced in the complaint (2010, 2011, and 2012) or if the registration was effective from the date of signing. In a letter dated August 17, 2012, Mr. McGrath responded that he was evaluating his activities to determine the date on which the registration should have been filed. Mr. McGrath stated:

I was not aware that my activities constituted "lobbying" in Minnesota. Many of my activities, such as my testimony before the Legislature regarding voter identification, were provided at the express request of the Legislature because of my expertise in that area. I need additional time to consider what portion of my time was spent on activities that qualify me as a "lobbyist" in Minnesota in order to determine if or when I hit the \$3,000 threshold.

By letter dated August 21, 2012, Board staff informed Mr. McGrath and Ms. Phillips that the lobbyist registration would be held pending Mr. McGrath's determination regarding whether he actually was required to register as a lobbyist, and, if so, the date on which the registration was required. Mr. McGrath was asked to finish his determination of whether he was required to register as a lobbyist by August 31, 2012.

On August 31, 2012, the Board received a letter from Ms. Phillips that withdrew the lobbyist registration submitted by Mr. McGrath. Ms. Phillips states:

Mr. McGrath was not a lobbyist under Minnesota law in 2010 or 2011. Likewise, Mr. McGrath has not yet and does not believe he will reach the lobbyist threshold in 2012. Similarly, Minnesota Majority was not required to file an annual principal report for 2010, 2011, and likely will not have to for 2012.

Ms. Phillips explained the methodology used to determine that Mr. McGrath was not required to register as a lobbyist:

Consistent with the Board's analysis in prior cases... Mr. McGrath reduced his annual salary to an hourly rate of compensation. He then applied this rate to the hours he spent on lobbying activities in 2010, 2011, and 2012. ...Based on his calculations, Mr. McGrath's compensation for lobbying activities did not exceed \$3,000 in any year. Mr. McGrath also provided a breakdown of Minnesota Majority's expenditures for 2010, 2011, and 2012. Minnesota Majority has not met the \$50,000 threshold for a lobbyist principal in any year.

The response provided a list of meeting dates between Mr. McGrath and members of the legislature, and a list of dates on which Mr. McGrath testified before legislative committees. The list is used as documentation of the amount of time Mr. McGrath spent in communication with legislators attempting to influence legislative action. The response states that each meeting and each committee testimony lasted approximately one hour.

The meetings and testimony were on the issue of voter identification. Mr. McGrath states that neither he, nor any other personnel of Minnesota Majority, testified on the other issues described in the Action Alerts sent out by Minnesota Majority (Employee Freedom Amendment, taxpayer-funded abortions, and illegal immigration).

The response provides that Mr. McGrath started to communicate with members of the legislature on a voter identification bill on November 18, 2010. During 2010, Mr. McGrath met with members of the legislature individually or in a legislative workshop on seven different occasions. In 2011, the response lists eighteen dates on which Mr. McGrath met with legislators or legislative staff, twelve dates on which he either testified on the voter identification legislation (both the legislation known as the "21<sup>st</sup> Century Voter ID bill" and later the proposed constitutional amendment on voter identification) or answered questions during a legislative committee meeting. In 2012, the response lists eleven dates on which Mr. McGrath met with members of the legislature on the voter identification constitutional amendment and four dates on which he testified before a legislative committee.

In addition to the listing of dates on which Mr. McGrath directly communicated with public officials the response provides that Mr. McGrath worked approximately 50 hours each year on Action Alerts asking members of Minnesota Majority to contact their legislators.

For all three years Mr. McGrath listed dates on which he prepared documents for use in testimony, or for submission to members of the legislature. These hours probably do not constitute time spent communicating with public officials or in asking others to communicate with public officials. However, to replicate the methodology used by Mr. McGrath, those hours are included in the calculation of compensation paid to Mr. McGrath for lobbying communications.

Year	Hours of Lobbying Communication	Hourly Rate of Compensation	Compensation for Lobbying Communication
2010	58	\$18	\$1,044
2011	85	\$19	\$1,615
2012	74	\$20	\$1,480

Mr. McGrath also noted that beginning in 2012 a large portion of his time, and related compensation, is for a voter identification ballot question committee. Activities to promote or defeat a ballot question do not constitute lobbying and do not count towards the \$3,000 threshold for lobbyist registration.

The response from Mr. Phillips' included a response from Mr. McGrath addressing the complainant's allegation that he spent over \$250 on a video shown at legislative hearings. Mr. McGrath states, "The video in question was produced by Jeff Davis, who is an unpaid volunteer. The cost of production was \$0."

### **Expenditures by Minnesota Majority**

The Board asked for information on the annual cost to Minnesota Majority for the Action Alert email feature used to notify Minnesota Majority members of legislative issues and to facilitate members contacting their legislators. Mr. McGrath provides that the feature was purchased from Capwiz Email Systems, and that the cost in 2010 was \$8,000; in 2011 the cost was \$12,000; and in 2012 the cost was \$15,000.

The Board asked if any other Minnesota Majority staff members testified at legislative committees or communicated with public officials on the issues raised in the complaint. Mr. McGrath provided that he was the only Minnesota Majority staff member to meet with legislators or to testify on the 21<sup>st</sup> Century Voter ID bill or the voter identification constitutional amendment.

By separate letter dated September 20, 2012, Ms. Phillips responded to a Board question on the annual cost of the Minnesota Majority website. The letter states that for the years 2010, 2011, and 2012 the cost of site hosting has been \$50 yearly, the domain name cost has been \$10 yearly, and that Jeff Davis provides website maintenance on a volunteer basis. In reference to the \$60 yearly cost for the website Ms. Phillips states, "The above totals reflect the total cost of the website without specifying the portion that may count towards the lobbying threshold under Minnesota law".

### **Board Analysis**

The activities of Mr. McGrath described in the complaint, and by Mr. McGrath himself in his affidavit to the Minnesota Supreme Court, were clearly efforts to influence legislative actions on the 21<sup>st</sup> Century Voter ID legislation and the proposed constitutional amendment on voter identification. Therefore, Mr. McGrath's actions were lobbying activities. The statement by Mr. McGrath that he did not consider his actions as "lobbying" is apparently based on the belief that because he was asked to testify before legislative committees the purpose of his presentations or discussions with legislators was changed. It was not. The purpose remained the same, to influence legislators to support issues that are important to Minnesota Majority.

However, the lobbyist registration and reporting requirements in Chapter 10A are not triggered by participating in lobbying activities alone. Instead, the statute requires registration and reporting only after specific monetary thresholds for compensation, or for expenditures paid with

personal funds for lobbying activities are met. Minnesota Statutes section 10A.01, subdivision 21, provides in part that a “lobbyist” is an individual who is:

(1) engaged for pay or other consideration of more than \$3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

An individual whose job duties include both lobbying activities and activities unrelated to lobbying must determine if the compensation they receive for lobbying activities exceeds the \$3,000 threshold for registration. Minnesota Rules 4511.0600, subpart 4, provides that:

A disbursement that is partially in support of lobbying and partially for a nonlobbying purpose must be allocated on a reasonable basis between the two purposes and reported based on that allocation.

Reducing a yearly salary to an hourly rate and then applying that rate to time spent lobbying is one way to determine a reasonable allocation of the salary paid to Mr. McGrath for lobbying compensation. The response from Mr. McGrath shows that the hourly allocation of his yearly salary as compensation for lobbying activities did not exceed the \$3,000 threshold that would have required registration with the Board in 2010, 2011, or 2012. Therefore, Mr. McGrath was not required to register as a lobbyist for Minnesota Majority under clause 1 of Minnesota Statutes section 10A.01, subdivision 21.

The allegation that Mr. McGrath spent over \$250 on the production of a video used for lobbying is not supported by the evidence. Further, the allegation that Minnesota Majority spent over \$250 on the Action Alert emails, while true, is unrelated to whether Mr. McGrath was required to register as a lobbyist under clause 2 of Minnesota Statutes section 10A.01, subdivision 21, which is based on an individual's use of his or her own money.

The complaint states that Minnesota Majority failed to register and report with the Board as a principal. Actually a principal, commonly referred to as a “lobbyist principal”, does not register with the Board. A principal is usually identified by the lobbyist who registers on the principal's behalf. After being identified on a lobbyist registration the principal is required to file an annual report of its expenditures in support of lobbying in Minnesota.

It is possible for an association to become a principal without being represented by a lobbyist. Minnesota Statutes section 10A.01, subdivision 33, provides that an association is a principal if it:

(1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or

(2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section 10A.04, subdivision 6.

As provided earlier in these findings because Mr. McGrath's compensation for lobbying activities did not reach the threshold required for registration, he was not a lobbyist. Therefore, Minnesota Majority did not become a principal under clause 1 by engaging or compensating a lobbyist.

The evidence shows that Minnesota Majority did make expenditures to influence legislative action on the 21<sup>st</sup> Century Voter ID legislation, the voter identification constitutional amendment, and the other issues highlighted in the Action Alerts sent to Minnesota Majority members. However, the combination of expenditures for the email service used for the Action Alerts, the cost of hosting the association's website, and the compensation paid to Mr. McGrath when he was attempting to influence legislative action, did not meet or exceed \$50,000 in any calendar year. Therefore, Minnesota Majority did not become a principal under clause 2 of Minnesota Statutes section 10A.01, subdivision 33. Because Minnesota Majority did not meet the definition of principal, it was not required to report as a principal to the Board.

**Based on the above Review and Analysis and the Relevant Statutes, the Board makes the following:**

#### **Findings Concerning Probable Cause**

1. There is probable cause to believe that Dan McGrath was lobbying on behalf of Minnesota Majority when he communicated with legislators and legislative staff on the 21<sup>st</sup> Century Voter ID legislation and the voter identification constitutional amendment, and when he urged others to communicate with public officials in an attempt to influence actions on issues described in Minnesota Majority Action Alerts.
2. There is no probable cause to believe that Dan McGrath received compensation of over \$3,000 in any year for his lobbying activities. Therefore, there is no probable cause to believe that Dan McGrath was required to register as a lobbyist for Minnesota Majority under the provisions of Minnesota Statutes section 10A.03.
3. There is no probable cause to believe that Minnesota Majority spent more than \$500 to engage or compensate a lobbyist or spent \$50,000 or more in any calendar year to influence legislative action. Therefore there is no probable cause to believe that Minnesota Majority is a lobbyist principal as defined in Minnesota Statutes section 10A.01, subdivision 33.



**Based on the above Findings, the Board issues the following:**

**Order**

The record in this matter and all correspondence is hereby entered into the public record in accordance with Minnesota Statutes, section 10A.02, subdivision 11. This matter is closed.

Dated: October 2, 2012

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Greg McCullough, Chair  
Campaign Finance and Public Disclosure Board

## **Relevant Statutes**

**Minnesota Statutes, 10A.01, Subd. 2. Administrative action.** "Administrative action" means an action by any official, board, commission or agency of the executive branch to adopt, amend, or repeal a rule under chapter 14. "Administrative action" does not include the application or administration of an adopted rule, except in cases of rate setting, power plant and powerline siting, and granting of certificates of need under section 216B.243.

**Minnesota Statutes, 10A.01, Subd. 21. Lobbyist.** (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration of more than \$3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

(b) "Lobbyist" does not include:

(1) a public official;

(2) an employee of the state, including an employee of any of the public higher education systems;

(3) an elected local official;

(4) a nonelected local official or an employee of a political subdivision acting in an official capacity, unless the nonelected official or employee of a political subdivision spends more than 50 hours in any month attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit other than the political subdivision employing the official or employee, by communicating or urging others to communicate with public or local officials, including time spent monitoring legislative or administrative action, or the official action of a metropolitan governmental unit, and related research, analysis, and compilation and dissemination of information relating to legislative or administrative policy in this state, or to the policies of metropolitan governmental units;

(5) a party or the party's representative appearing in a proceeding before a state board, commission, or agency of the executive branch unless the board, commission, or agency is taking administrative action;

(6) an individual while engaged in selling goods or services to be paid for by public funds;

(7) a news medium or its employees or agents while engaged in the publishing or broadcasting of news items, editorial comments, or paid advertisements which directly or indirectly urge official action;

(8) a paid expert witness whose testimony is requested by the body before which the witness is appearing, but only to the extent of preparing or delivering testimony; or

(9) a party or the party's representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

(c) An individual who volunteers personal time to work without pay or other consideration on a lobbying campaign, and who does not spend more than the limit in paragraph (a), clause (2), need not register as a lobbyist.

(d) An individual who provides administrative support to a lobbyist and whose salary and administrative expenses attributable to lobbying activities are reported as lobbying expenses by the lobbyist, but who does not communicate or urge others to communicate with public or local officials, need not register as a lobbyist.

**Minnesota Statutes, 10A.01, Subd. 33. Principal.** "Principal" means an individual or association that:

(1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or

(2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section 10A.04, subdivision 6.

### **Minnesota Statutes, 10A.03 Lobbyist Registration**

Subdivision 1. **First registration.** A lobbyist must file a registration form with the board within five days after becoming a lobbyist or being engaged by a new individual, association, political subdivision, or public higher education system.

Subd. 2. **Form.** The board must prescribe a registration form, which must include:

(1) the name, address, and e-mail address of the lobbyist;

(2) the principal place of business of the lobbyist;

(3) the name and address of each individual, association, political subdivision, or public higher education system, if any, by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears;

(4) the Web site address of each association, political subdivision, or public higher education system identified under clause (3), if the entity maintains a Web site; and

(5) a general description of the subject or subjects on which the lobbyist expects to lobby.

If the lobbyist lobbies on behalf of an association, the registration form must include the name and address of the officers and directors of the association.

Subd. 3. **Failure to file.** The board must send a notice by certified mail to any lobbyist who fails to file a registration form within five days after becoming a lobbyist. If a lobbyist fails to file a form within ten business days after the notice was sent, the board may impose a late filing fee of

\$5 per day, not to exceed \$100, starting on the 11th day after the notice was sent. The board must send an additional notice by certified mail to a lobbyist who fails to file a form within 14 days after the first notice was sent by the board that the lobbyist may be subject to a civil penalty for failure to file the form. A lobbyist who fails to file a form within seven days after the second notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Subd 4. **Publication.** The restrictions of section 10.60 notwithstanding, the board may publish the information required in subdivision 2 on its Web site.

Subd 5. **Exemptions.** For good cause shown, the board must grant exemptions to the requirement that e-mail addresses be provided.

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**Finding and Order in the Matter of the Complaint of Doug Baker regarding the Ken  
Tschumper for the Minnesota House committee**

**The Allegation in the Complaint**

On September 10, 2012, the Campaign Finance and Public Disclosure Board received a complaint regarding the Ken Tschumper for the Minnesota House committee. This complaint alleges that the committee violated Minnesota Statutes Chapter 10A by not disclosing all of its expenditures on its pre-primary report of receipts and expenditures. Specifically, the complaint maintains that on July 2, 2012, the committee bought advertising time from radio station KFIL FM for \$283.50 but did not report this expenditure on its July 30<sup>th</sup> report.

**The Response to the Complaint**

In its response, the Ken Tschumper for the Minnesota House committee admits that on July 2, 2012, the committee bought advertising time for July from radio station KFIL FM. The contract with the radio station shows that the cost of this time was \$283.50 and that Mr. Tschumper paid for the time himself with a personal check.

In the response, Mr. Tschumper says that after he placed and paid for the radio ads, he did not give the receipt to the committee treasurer. Instead, “the receipt for these ads accidentally got mixed in with a large number of [Mr. Tschumper’s] farm receipts.” The treasurer therefore “was unaware of the transaction” when she prepared the committee’s pre-primary-election report.

Due to some minor health problems, Mr. Tschumper and his wife did not go through their farm accounts and find the radio ad receipt until mid-August. Mr. Tschumper initially believed that it would be okay to include the radio ad expense on the committee’s October report. When Mr. Tschumper heard about the complaint in early September, however, he realized that the committee would have to amend its July report.

Consequently, Mr. Tschumper gave the bill for the radio ads to his treasurer in early September. The treasurer reimbursed Mr. Tschumper for the ads on September 14, 2012. The treasurer also prepared an amended July report and filed it with the Board on September 18, 2012. The amended report shows that on July 2, 2012, the committee incurred an obligation to Mr. Tschumper in the amount of \$283.50 for the July radio advertisements.

**Board Analysis**

The purpose of Minnesota Statutes Chapter 10A, is to promote accurate disclosure of a principal campaign committee’s financial transactions so that the public can know how a candidate is raising and spending that money. To further this goal, Minnesota Statutes section 10A.20,

subdivision 3, clause g, provides that a candidate's committee must report the name and address of every vendor to whom it has made expenditures of more than \$100 in a year. The committee also must report the amount and the purpose of the expenditures. Campaign finance laws further provide that an expenditure is made on the date that the committee becomes obligated to pay for the goods or services purchased, not on the date when the committee actually pays the expense.

Here, the Ken Tschumper for the Minnesota House committee signed a contract for radio time on July 2, 2012, and Mr. Tschumper personally paid for the ads on that date. Because the committee became obligated to pay for the radio ads on July 2, 2012, the radio ad expenditure occurred on that date. The committee, however, did not include this expenditure on its pre-primary-election report, which was due on July 30<sup>th</sup>. Although the record shows that this omission was not intentional, the failure to include all of the committee's expenditures on its pre-primary-election report violated Minnesota Statutes section 10A.20, subdivision 3, clause g.

A candidate's committee can remedy violations of the statutory reporting requirements by amending its report. Here, the committee amended its pre-primary-election report to include the unpaid expenditure for the radio ads. When a candidate's committee remedies a reporting violation related to the omission of an expenditure, the statutes do not provide for a civil penalty.

**Based on the evidence before it and the above analysis the Board makes the following:**

**Finding Concerning Probable Cause**

There is probable cause to believe that the Ken Tschumper for the Minnesota House committee did not include an expenditure for radio ads on its pre-primary-election report. The committee, however, amended its report to include this transaction and no violation remains.

**Based on the above Finding, the Board issues the following:**

**ORDER**

The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11.

Dated: October 2, 2012

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Greg McCullough, Chair  
Campaign Finance and Public Disclosure Board

### **Relevant Statute**

**Minn. Stat. § 10A.20, subd. 3. Contents of report.** (g) The report must disclose the name and address of each individual or association to whom aggregate expenditures, including approved expenditures, have been made by or on behalf of the reporting entity within the year in excess of \$100, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office must allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**Findings and Order in the Matter of Contributions to the Polk County DFL Committee  
from the Northern Valley Labor Council and Education Minnesota Western-North**

**Summary of the Facts**

Pursuant to Minnesota Statutes section 10A.27, subdivision 13, candidates, political party units, and political committees registered with the Campaign Finance and Public Disclosure Board (the Board) may not accept a contribution in excess of \$100 from an association that is not registered with the Board unless the contribution is accompanied by financial disclosure of the donating association's receipts and expenditures in the form specified by statute. Acceptance of a contribution in excess of \$100 without the required disclosure is punishable by civil penalty of up to four times the amount of the contribution over \$100.

An unregistered association that makes a contribution of more than \$100 without the required disclosure is in violation of Minnesota Statutes section 10A.27, subdivision 13(b). Failure to provide the appropriate disclosure with a contribution of more than \$100 is punishable by civil penalty of up to \$1,000.

In the 2011 year-end Report of Receipts and Expenditures filed with the Board, the Polk County DFL Committee (the Committee) disclosed receipt of a contribution on January 14, 2011, in the amount of \$200 from the Northern Valley Labor Council and on January 16, 2011, in the amount of \$300 from Education Minnesota Western-North, associations not registered with the Board. No financial disclosure was provided with the contributions. The contributions were not returned within sixty days, and are therefore considered accepted under the provisions of Minnesota Statutes section 10A.15, subdivision 3.

In response to a Board inquiry, Charlie Murphy, treasurer of the Committee, states that, "We had a fundraiser early in 2011 with Bernie Lieder as our featured guest. He was ending his long term in the state house and we were honoring him and having a Polk DFL Fundraiser with Bernie as our draw."

In a letter dated July 12, 2012, Mark Froemke, president, and Wayne Burlog, treasurer, of the Northern Valley Labor Council, responded that the check was written with the understanding that the funds would be used to defray the costs of the retirement event for Representative Lieder. The letter states, "The Northern Valley Labor Council, AFL-CIO, has not, and will not make contributions to any political party, candidate or entity." A copy of the check issued by the Northern Valley Labor Council for the event was provided with the response. The check is made payable to the "Bernie Lieder Retirement Fund."

In an email received June 30, 2012, Kim Davidson, Education Minnesota Western-North, responded that it was her understanding they were purchasing tickets for a retirement dinner for Representative Lieder, and that at no time did they believe that the event was a fundraiser for the Committee. A copy of the check used by Education Minnesota Western-North to purchase tickets was provided to the Board. The check is made payable to the "Lieder Recognition."

Staff contacted Ms. Davidson and Mr. Froemke by phone and inquired how they were approached to participate in the event. Both responded that they thought individuals were organizing the event.



This matter was considered by the Board in executive session on October 2, 2012. The Board's decision is based on the correspondence received from Mr. Murphy, Mr. Froemke, Mr. Burlog, and Ms. Davidson and on Board records.

**Based on the information outlined in the above Summary of the Facts and the Relevant Statutes, the Board makes the following:**

**Findings Concerning Probable Cause**

1. There is probable cause to believe that the Polk County DFL Committee violated Minnesota Statutes section 10A.27, subdivision 13, when it accepted a contribution in excess of \$100 from two unregistered associations without receiving the appropriate disclosure with the contributions.
2. There is probable cause to believe that the Northern Valley Labor Council and Education Minnesota Western-North violated Minnesota Statutes section 10A.27, subdivision 13 (b), when they made contributions in excess of \$100 without providing the required disclosure.
3. There is probable cause to believe that Northern Valley Labor Council and Education Minnesota Western-North were unaware that they were contributing to the Polk County DFL Committee when they issued checks to attend the event for Representative Lieder.
4. There is no probable cause to believe that the violations by the Polk County DFL Committee, the Northern Valley Labor Council or Education Minnesota Western-North were intentional or were done with the intent to circumvent the provisions of Chapter 10A.

**Based on the above Findings Concerning Probable Cause, the Board issues the following:**

**ORDER**

1. The Board imposes a civil penalty of \$300, one times the amount by which the contributions from the Northern Valley Labor Council and Education Minnesota Western-North cumulatively exceeded \$100, on the Polk County DFL Committee for accepting and depositing contributions from unregistered associations without the disclosure required by Minnesota Statutes section 10A.27, subdivision 13.
2. The Polk County DFL Committee is directed to forward to the Board payment of the civil penalty by check or money order payable to the State of Minnesota within thirty days of receipt of this order.
3. The Polk County DFL Committee is directed to refund \$100 to the Northern Valley Labor Council and \$200 to Education Minnesota Western-North and forward to the Board copies of the checks used to return the excess contributions within thirty days of receipt of this order.
4. The Board imposes no civil penalty on the Northern Valley Labor Council or Education Minnesota Western-North for making contributions to the Polk County DFL Committee in excess of \$100 without the disclosure required by Minnesota Statutes section 10A.27, subdivision 13.

5. If the Polk County DFL Committee does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action for the remedies available under Minnesota Statutes section 10A.34.
6. The Board investigation of this matter is hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11, and upon payment of the civil penalties imposed herein, this matter is concluded.

Dated: October 2, 2012

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Greg McCullough, Chair  
Campaign Finance and Public Disclosure Board

### **Relevant Statutes**

**10A.27, subdivision 13. Unregistered association limit; statement; penalty.** (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$100 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board. This subdivision does not apply when a national political party contributes money to its affiliate in this state.

(b) An unregistered association may provide the written statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which the contribution was made. An unregistered association or an officer of it is subject to a civil penalty imposed by the board of up to \$1,000, if the association or its officer:

(1) fails to provide a written statement as required by this subdivision; or

(2) fails to register after giving the written statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$100 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of \$100.

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**Findings and Order In The Matter Of a Contribution Made By  
The Campaign Committee for Brian Gruber  
To a Candidate Seeking Federal Office**

**Summary of the Facts**

Minnesota Statutes section 10A.27, subdivision 9, clause (c), prohibits contributions from a principal campaign committee to a person who seeks nomination or election to the office of senator or representative in Congress of the United States. There is no specified civil penalty for a principal campaign committee that violates this statute, but the amount of a prohibited contribution must be returned to the principal campaign committee.

The 2011 year-end Report of Receipts and Expenditures filed by the Campaign Committee for Brian Gruber (the Gruber Committee) reported a contribution of \$750 to the Michael Katch Progressive for Minnesota Committee. The year-end report was used by the Gruber Committee as a termination report to close its registration with the Campaign Finance and Public Disclosure Board (the Board).

The contribution from the Gruber Committee was not reported as received by the Michael Katch Progressive for Minnesota Committee. In response to a routine reconciliation letter from the Board, Seth Doorn, treasurer for the Gruber Committee, states that the donation in question was actually made to the Michael Katch for Congress Exploratory Committee, a committee for federal office.

By letter dated June 1, 2012, Board staff notified Seth Doorn and Brian Gruber of the potential violation.

The Gruber Committee closed its campaign bank account in conjunction with filing the January 26, 2012, termination report. When the principal campaign committee that made a prohibited contribution has terminated the amount of the prohibited contribution must be forwarded to the Board for deposit in the state general fund.

The matter was considered by the Board in executive session on October 2, 2012. The Board's decision was based on Board records.

**Based on the above Summary of Facts and the Relevant Statute, the Board makes the following:**

**Findings Concerning Probable Cause**

1. There is probable cause to believe that the Campaign Committee for Brian Gruber contributed \$750 to a candidate seeking federal office in violation of Minnesota Statutes section 10A.27, subdivision 9, clause (c).

2. There is no probable cause to believe that this violation was committed with the intent to violate the requirements of Minnesota Statutes, Chapter 10A.

**Based on the above Finding, the Board issues the following:**

**ORDER**

1. Brian Gruber is ordered to recover the contribution from the Michael Katch for Congress Exploratory Committee and to forward the funds to the Board for deposit in the general fund of the state to remedy the violation. The amount of the contribution must be forwarded to the Board within 30 days of receipt of this order.
2. If Brian Gruber does not comply with the provision of this order the Board's Executive Director may request that the Attorney General bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
3. The record in this matter and all correspondence is hereby entered into the public record in accordance with Minnesota Statutes section 10A.02, subdivision 11, and upon payment of the funds specified herein, this matter is closed.

Dated: October 2, 2012

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Greg McCullough, Chair  
Campaign Finance and Public Disclosure Board

**Relevant Statute**

**Minnesota Statutes section 10A.27, subdivision 9, clause (c)** A candidate's principal campaign committee must not accept a contribution from, or make a contribution to, a committee associated with a person who seeks nomination or election to the office of president, senator, or representative in Congress of the United States.