

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

.....  
**October 7, 2015  
Nokomis Room  
Centennial Office Building**

.....  
**MINUTES**

The meeting was called to order by Chair Beck.

Members present: Beck, Flynn, Leppik, Oliver, Rosen (arrived during Executive Director topics); Sande (arrived after Chair's report)

Others present: Goldsmith, Sigurdson, Fisher, Pope, staff; Hartshorn, counsel

The meeting did not strictly follow the order of business set forth in the agenda.

**CHAIR'S REPORT**

**Board meeting schedule**

The next Board meeting is scheduled for Tuesday, November 3, 2015.

**MINUTES** (September 1, 2015)

After discussion, the following motion was made:

Member Leppik's motion: To approve the September 1, 2015, minutes as drafted.

Vote on motion: Unanimously passed (Flynn abstained, Rosen absent).

**EXECUTIVE DIRECTOR TOPICS**

**Status of office operations**

Mr. Goldsmith told members that staff had conducted compliance and Campaign Finance Reporter training in September, had made public subsidy payments for the special election in House District 3A, and had started work on the 2015 statutory compilation.

Mr. Sigurdson told members that the Campaign Finance Summary would be released after the meeting. Mr. Sigurdson said that the Summary contained information about the contributions received and expenditures made by all committees and party units registered with the Board. Mr. Sigurdson stated that the document's executive summary highlighted interesting information in the report, such as the figures showing the increasing importance of independent expenditures in Minnesota elections.

**Website redevelopment**

Mr. Goldsmith told members that he would be spending the majority of his time overseeing the website redevelopment project and that this project would stretch available staff resources. Mr. Goldsmith said that plans to hire a temporary database developer to assist Board IT staff in this area were progressing. Mr. Goldsmith reported that the redevelopment project actually involved a series of smaller projects including access management; data mapping; online reporting for smaller committees; online reporting for all committees; database consolidation; name standardization; website searches; and customized home pages. Mr. Goldsmith said that to meet the April 1<sup>st</sup> deadline, the scope of the project could not be expanded beyond items he had listed. Mr. Goldsmith stated that if the project proceeded ahead of schedule, online registration for committees would be the first item added to the scope of the project.

**ENFORCEMENT REPORT**

**A. Waiver requests**

<u>Name of Candidate or Committee</u>	<u>Late Fee Amount</u>	<u>Civil Penalty Amount</u>	<u>Reason for Fine</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
MN Public Interest Research Group	\$1,000	\$1,000	3/16/2015 Principal's Report	Board confirmed the termination of 8 lobbyists registered for MPIRG at its meeting of 9/1/15. Individual responsible for association's reporting was new to role and lacked guidance on the matter. Association has worked with Board staff to clean up its lobbyist registrations and seek compliance.	No motion		
Lutheran Advocacy – Minnesota	\$225 **	\$0	3/17/2014 Principal Report	Organization experienced budget cuts, had no employees, and sat idle for 8 months. Many records went missing during this period of time.	Member Leppik	To waive the \$225 late fee.	Passed unanimously
Tamela Walhof	\$50**	\$0	6/16/2014 Lobbyist Report	Individual was involved with Lutheran Advocacy – Minnesota, discussed above. Individual was also experiencing health issues during this period of time.	No motion		

\*\* Have already been paid and will function as a reimbursement payment

**B. Staff requests for Board referral to Attorney General's Office**

**i. Evan Rapp Volunteer Committee**

Mr. Fisher presented members with a memorandum on this topic that is attached to and made a part of these minutes. Mr. Fisher reminded members that Mr. Rapp had paid himself for the storage of campaign signs and materials even though he had not incurred any actual costs in storing these materials. Mr. Rapp initially agreed to a conciliation agreement that required him to repay the excess storage funds to the state but waived the incurred late filing fees and civil penalties. When Mr. Rapp failed to sign the agreement, the Board issued an order in the matter requiring him to pay the excess funds to the state and imposing the late filing fees and a larger civil penalty. Mr. Fisher stated that staff

was seeking referral to the attorney general's office for the entry of a judgement against Mr. Rapp in Minnesota and possibly in California where Mr. Rapp now lives.

After discussion, the following motion was made:

Member Rosen's motion: To refer the matter to the attorney general.

Vote on motion: Unanimously passed.

## **ii. Northeast Social**

Mr. Fisher presented members with a memorandum on this topic that is attached to and made a part of these minutes. Mr. Fisher told members that Northeast Social had not yet filed its 2013 principal report with the Board and that it had filed its 2014 report late. Consequently, Northeast Social owed \$2,575 in late filing fees and civil penalties. Mr. Fisher said that staff was asking the Board to refer this matter to the attorney general to seek an order compelling Northeast Social to file its 2013 report and to obtain a judgment for the late filing fees and civil penalties.

After discussion, the following motion was made:

Member Leppik's motion: To refer the matter to the attorney general.

Vote on motion: Unanimously passed.

## **iii. Cedar Towing**

Mr. Fisher presented members with a memorandum on this topic that is attached to and made a part of these minutes. Mr. Fisher told members that Cedar Towing had filed a 2014 principal report with what staff assumed to be incorrect information on it and had not amended this report in response to staff requests. Mr. Fisher said that Cedar Towing also owed late filing fees and civil penalties for the report. Mr. Fisher said that staff was asking the Board to refer this matter to the attorney general to seek an order compelling Cedar Towing to file an amended report and to obtain a judgment for the late filing fees and civil penalties.

After discussion, the following motion was made:

Member Oliver's motion: To refer the matter to the attorney general.

Vote on motion: Unanimously passed.

## **Informational Items**

### **A. Payment of late filing fee for Lobbyist Disbursement Reports:**

Tamela Walhof, \$50 Lutheran Coalition for Public Policy

**B. Payment of a late filing fee for 2014 Annual Report of Lobbyist Principal due March 16, 2015:**

Lutheran Coalition for Public Policy, \$225

**C. Payment of late filing fee for 2014 Year-end Report of Receipts and Expenditures:**

Noor (Mohamud) for House, \$625  
Petersen (Branden) for Senate, \$1,000

**D. Payment of a civil penalty for 2014 Year-end Report of Receipts and Expenditures:**

Petersen (Branden) for Senate, \$1,000

**E. Payment of a civil penalty for exceeding the special source aggregate contribution limit:**

Friends of Zach Dorholt, \$304.67  
Committee to Elect John Hoffman, \$71.25  
Katie Sieben Volunteer Committee, \$20

**F. Payment of a civil penalty for exceeding the party unit limit:**

Citizens for Dave Hancock, \$27.60

**G. Payment of a civil penalty for a contribution from an unregistered association without disclosure:**

The Mad Hatter, \$75  
North Metro Harness Initiative, \$62.50  
Schmit (Matt) for Senate, \$62.50

**H. Payment of a civil penalty for failure to provide registration number with a contribution:**

Mark Grant, MN State College Faculty, \$10  
Damon Kapke, MN State College Faculty, \$10

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

Will Morgan Campaign Committee, \$773.62 (anonymous)  
Mary Sawatzky for State Representative, \$100 (anonymous)

**DISCUSSION OF POSSIBILITY OF BOARD FACEBOOK PAGE**

Board members discussed the possibility of creating a Facebook page for the Board. The Chair and Vice Chair were generally in favor of establishing a Facebook page after the launch of the new website. There was agreement that the establishment of a Facebook page is a lower priority than completing the new website.

Mr. Goldsmith told members that he had spoken with the MN.IT assistant commissioner of digital technology to get additional information about the advantages and disadvantages of a Board Facebook page. Mr. Goldsmith had learned that it was difficult to control the content of a Facebook page due to ads and comments. Mr. Goldsmith said that the MN.IT assistant commissioner preferred Twitter for getting information out about an agency and had offered to attend a Board meeting to discuss social media options. Members agreed that this presentation would be a useful way to continue the social media discussion. The Board's discussion of the use of social media is ongoing and will continue as time and new information becomes available.

### **DISCUSSION OF POSSIBLE RULEMAKING AND LEGISLATIVE RECOMMENDATIONS**

Mr. Goldsmith presented members with a memorandum on this topic that is attached to and made a part of these minutes. Mr. Goldsmith told members that this was a critical time for the website redevelopment project and that his attention was focused on that project. Mr. Goldsmith said that the decision of potential rulemaking and legislative recommendations could be deferred until January when the website redevelopment project had been successfully launched. Mr. Goldsmith said that the three potential rulemakings presented for long-term consideration would be helpful to the regulated public but would take at least 18 months to complete. Members discussed the cautious approach to rulemaking and the need to avoid using this process as a substitute for legislation.

### **LEGAL COUNSEL'S REPORT**

Mr. Hartshorn presented members with a written report that is attached to and made a part of these minutes. Mr. Hartshorn said that the Peterson matter had been taken off the report because Sen. Peterson was working with staff to resolve the matter. Mr. Goldsmith said that Sen. Peterson had filed his report and had paid the penalty but that additional detail about reimbursements claimed on the report was needed to resolve the matter.

### **OTHER BUSINESS**

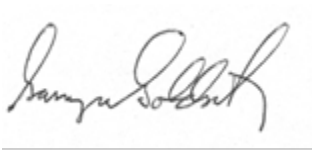
#### **Public official's failure to fully disclose on economic interest statement**

Mr. Goldsmith presented members with a memorandum on this topic that is attached to and made a part of these minutes. Mr. Goldsmith said that a member of a watershed management organization had resigned after learning that she would be required to disclose the securities held in her IRA if she continued to serve. The official had not attended any meetings of the WMO after learning of the disclosure requirement. Mr. Goldsmith said that unless otherwise directed by the Board, he would not refer this matter to the attorney general for action to compel the disclosure.

### **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 Chair had nothing to report into regular session:

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

A handwritten signature in black ink, appearing to read "Gary Goldsmith", enclosed in a thin black rectangular border.

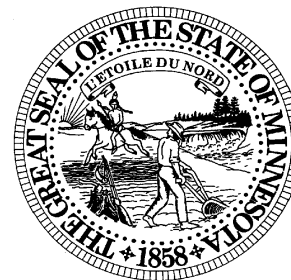
Gary Goldsmith  
Executive Director

Attachments:

- Memorandum regarding referral of Evan Rapp Volunteer Committee to attorney general
- Memorandum regarding referral of Northeast Social to attorney general
- Memorandum regarding referral of Cedar Towing to attorney general
- Memorandum regarding possible rulemaking
- Legal counsel report
- Memorandum regarding public official's failure to fully disclose on economic interest statement

Minnesota

## *Campaign Finance and Public Disclosure Board*



**Date:** September 30, 2015

**To:** Board members

**From:** Kyle Fisher, Legal Analyst

**Telephone:** 651-539-1182

**Re:** Referral to Attorney General – Evan Rapp Volunteer Committee

This matter began after the committee failed to file its 2013 year-end report. At its meeting of November 10, 2014, the Board authorized the audit/investigation of the committee to determine the accuracy of the committee's currently reported cash balance, as the committee had filed no change reports stating a cash balance of \$1,278.50 since 2008.

Mr. Rapp explained that the committee's bank account was closed and that he had paid himself the remaining committee funds as compensation for storage of committee signs and records. However, Mr. Rapp also acknowledged that he incurred no costs for the storage of the signs and records, as they were stored at his home. This transaction appeared to be a conversion of campaign funds to personal use.

Staff reviewed Mr. Rapp's reports and noted that he had contributed \$250 to his own committee. A committee is permitted to return any contribution at any time, so he could have paid himself \$250 as a refund of the contribution without violating any statute. (Note that the 90-day rule for returning contributions only relates to whether the return cures a violation, not whether the return may be made or not.) Staff also noted that a committee may terminate with a cash balance of \$100 and is not required to account for the last \$100. This means that Mr. Rapp could have terminated his committee if he had accounted for \$928.50.

Mr. Rapp lives in California and stated that he had no plans to run for office in Minnesota again. On that basis, the Board offered Mr. Rapp a conciliation agreement that was sent via mail on March 18, 2015. The agreement established a payment plan for the \$928.50 and waived other outstanding late filing fees and civil penalties of \$525.

Although Mr. Rapp informed Board staff multiple times that he would sign and return the agreement and begin making the required payments, he did not do so. Staff also invited Mr. Rapp to propose a different payment plan, but he did not do so.

At the meeting of August 4, 2015, the Board issued Findings of Fact, Conclusions of Law, and an Order regarding the Evan Rapp Volunteer Committee and Mr. Rapp that ordered Mr. Rapp to pay to the Board a civil penalty of \$1,857 (\$928.50 to return the converted money, as the committee's bank account has been closed, and a \$928.50 civil penalty for the conversion itself).

After receiving the Findings, Conclusions, and Order, Mr. Rapp contacted Board staff to assess his options. Mr. Goldsmith responded by letter to Mr. Rapp and discussed his options. No

response to this communication, nor any payment of the assessed civil penalty, has been received.

Staff has the option of forwarding the late filing fees and civil penalties to the Minnesota Department of Revenue for collection. This process costs the Board nothing. However, as Mr. Rapp has moved to California, and expresses no desire to return, it is unlikely that he will have Minnesota income or tax refunds for future garnishment.

Given that this method of collection is not likely to produce any return, the Board could also elect to obtain a judgment against Mr. Rapp in Minnesota. This judgment would then have to be entered in California before any collection could occur. This process will result in costs for service in California, entering judgments, etc. However, given that the Findings related to a conversion of political funds to personal use and that, in addition to donor contributions, the committee received public subsidy from the state, the Board may consider this a matter that should be pursued as a matter of public policy.

Staff therefore requests direction from the Board as to whether to refer the assessed civil penalty of \$1,857 and the prior late filing fees totaling \$525 to the Office of the Attorney General for the purpose of obtaining a judgment and recording that judgment in California.

Attachments:

Findings dated August 4, 2015

Letter to Mr. Rapp dated August 7, 2015



Minnesota

*Campaign Finance and  
Public Disclosure Board*



**Date:** September 30, 2015

**To:** Board members

**From:** Kyle Fisher, Legal Analyst

**Telephone:** 651-539-1182

**Re:** Referral to Attorney General – Northeast Social

Northeast Social failed to file its 2013 Principal's Report with the Board. Because the report has still not been filed, Northeast Social has incurred the maximum statutory late filing fee of \$1,000 and civil penalty of \$1,000 on this report.

In addition, Northeast Social filed its 2014 Principal's Report, which was due on March 16, 2015, on April 10, 2015. Because of this late filing, Northeast Social incurred a late filing fee of \$475 and a civil penalty of \$100.

Staff has repeatedly sent letters and contacted Northeast Social regarding these matters. Mr. Goldsmith spoke to the owner of Northeast Social and its registered lobbyist Mr. Al Garcia on April 10, 2015. The owner of Northeast Social and Mr. Garcia agreed to take steps to follow through on the matter. However, no action has been taken at this time.

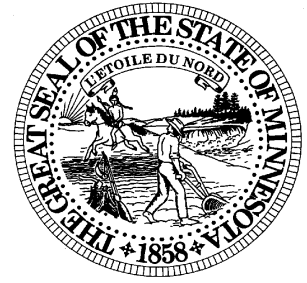
Staff requests that the Board authorize the Executive Director to refer this matter to the Attorney General to seek an order compelling the filing of the 2013 report and to obtain a judgment against Northeast Social for the assessed \$2,575 in late filing fees and civil penalties.

Attachments

Letter to Northeast Social dated September 8, 2015

Minnesota

*Campaign Finance and  
Public Disclosure Board*



**Date:** September 30, 2015

**To:** Board members

**From:** Kyle Fisher, Legal Analyst

**Telephone:** 651-539-1182

**Re:** Referral to Attorney General – Cedar Towing and Auction

Cedar Towing and Auction, Inc. has been non-responsive to letters from Board staff and has not responded in the past to repeated telephone calls. On August 21, 2015, Mr. Goldsmith called the company again and was finally put through to one of the co-owners. The other co-owner is the sister of the individual listed as our contact.

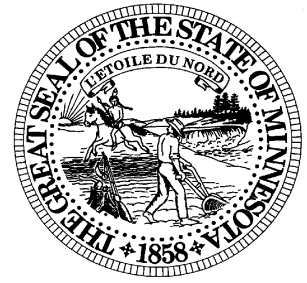
On August 27, 2015, the business filed its 2015 principal's report, which was due on March 16, 2015, and has been assessed a \$1,000 late filing fee and a \$1,000 civil penalty. Suggestions that the company request a waiver or pay the accrued late filing fee and civil penalty have been ignored.

In addition, the filed report is assumed by staff to be incorrect. Cedar Towing and Auction indicated that it spent \$500 in 2014 to influence administrative action by the Minnesota Public Utilities Commission in cases of rate setting, power plant and power line siting, and granting of certificates of need. Based on staff's understanding of the business, it appears that this was in error. A formal request for an amended report has been sent to Cedar Towing and Auction. If the amendment is not timely filed, an additional late filing fee and civil penalty will begin to accrue.

Staff requests that the Board authorize the Executive Director to refer this matter to the Attorney General to obtain a judgment against Cedar Towing and Auction for the assessed \$1,000 late filing fee, \$1,000 civil penalty, any other late filing fees or civil penalties that may accrue, and an order requiring it to file an amended report.

Minnesota

# *Campaign Finance and Public Disclosure Board*



**Date:** September 30, 2015

**To:** Board members

**From:** Gary Goldsmith, Executive Director

**Telephone:** 651-539-1190

**Re:** Possible rulemaking in 2016

There is a wide range of topics on which the Board could adopt rules. The following three topics represent rules that might be successfully undertaken, though the first topic will be complex and could be controversial.

## **1. Clarifying conduct, actions, or relationships that prevent an expenditure from being an independent expenditure.**

An independent expenditure is:

an expenditure that is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent.

### **Possible rule**

A rule could be drafted that explains the concepts of express and implied consent, cooperation, and the other relationships that disqualify an expenditure from being an independent expenditure. The rule could draw on the Board's recent decisions on complaints challenging independent expenditures.

### **Hurdles**

The concepts are difficult to define. There will be tension between those who want a closer relationship between the candidates and the independent spenders and those who want a stricter separation. If it wants to be specific, the Board will have to decide where the line is between what is permitted and what is not. An advisory committee should be used.

## **2. Clarifying disclaimer requirements and exemptions for independent expenditure and attribution disclaimers.**

In the 2015 session, the statutes regarding disclaimers were significantly amended by adding groups and types of communications that would not require a disclaimer. Rules could be adopted to further provide guidance on when a disclaimer is not required.

The statutes also use words like "conspicuous" print, which could be further defined to avoid vagueness.

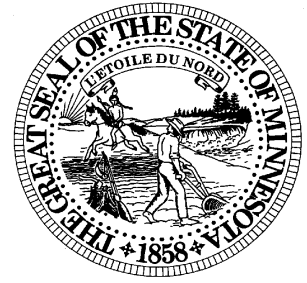
## **3. Conforming rules to statutes.**

Some rules still use dollar thresholds or terms that are no longer consistent with statutes. These rules, numbering about 20, could be amended to make them conform to the current statutory requirements.



Minnesota

*Campaign Finance and  
Public Disclosure Board*



**Date:** September 30, 2015

**To:** Board members

**From:** Gary Goldsmith, Executive Director

**Telephone:** 651-539-1190

**Re:** Informational memo – non-referral to Attorney General for moot EIS amendment

Pam Mortenson was appointed to the Pioneer-Sarah Creek Watershed Management Organization (WMO) in January 2015. A WMO member is a public official who is required to file an economic interest statement (EIS) with the Board.

The Board did not receive notice of Ms. Mortenson's appointment until May 2015. Board staff then notified Ms. Mortenson of the EIS requirement.

Until she received the Board notice, Ms. Mortenson did not know that her service on the WMO would require her to file an EIS. Although Ms. Mortenson did not object to disclosing most of the information required on the EIS, she strongly objected to listing the securities that she holds. Ms. Mortenson therefore filed an EIS disclosing all required information other than her securities.

In telephone discussions, Mr. Goldsmith advised Ms. Mortenson that she was required to disclose her securities. Rather than make that disclosure, Ms. Mortenson resigned from the WMO effective July 1, 2015. Records of the WMO indicate that Ms. Mortenson did not attend any WMO meetings after learning of the EIS requirement.

When information is missing from a report and the circumstances suggest that an amended report will not be voluntarily filed, the Board may refer the matter to the Office of the Attorney General with directions to seek an order compelling the amendment. In this matter, however, Ms. Mortenson has resigned from the WMO and is no longer a public official required to file an EIS. Additionally, she did not perform any duties as a public official after she learned of the securities disclosure requirement. Consequently, unless otherwise directed by the Board, the executive director does not intend to pursue the referral of this matter to the Attorney General.