

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

.....
**August 14, 2019
St Croix Room
Centennial Office Building**
.....

MINUTES

The meeting was called to order by Chair Leppik.

Members present: Flynn, Haugen, Leppik, Moilanen, Rosen, Swanson

Others present: Sigurdson, Olson, Pope staff; Hartshorn, counsel

MINUTES (June 26, 2019)

After discussion, the following motion was made:

Member Moilanen's motion: To approve the June 26, 2019, minutes as drafted.

Vote on motion: Unanimously passed (Rosen abstained).

CHAIR'S REPORT

A. Meeting schedule

The next Board meeting is scheduled for 10:30 a.m. on Wednesday, September 4, 2019.

EXECUTIVE DIRECTOR REPORT

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that since the last meeting, staff had produced a lobbyist disbursement summary that provided detailed information on the lobbyists registered with the Board and their lobbying disbursements in 2018. Mr. Sigurdson provided members with two charts that showed the total lobbying disbursements made in 2018 and those disbursements by subject. Mr. Sigurdson also told members that staff had sent out the annual certification to agencies that have public officials. Mr. Sigurdson said that this certification helped staff maintain accurate lists of public officials. Finally, Mr. Sigurdson updated members on the progress of the project to develop an online version of Campaign Finance Reporter. Members then discussed when to begin preparing for the 2020 legislative session and decided to begin this process by reviewing the 2019 recommendations at the September meeting.

ENFORCEMENT REPORT

A. Consent Items

1. Administrative termination of lobbyist Toni Stillday (3333)

Mr. Olson told members that the Red Lake Tribal Council was asking that the registration of Ms. Stillday be terminated effective February 27, 2019, which was the date that the principal severed its relationship with Ms. Stillday. Mr. Olson said that Ms. Stillday had been asked to file a termination statement but had not done so. Mr. Olson stated that Board staff had administratively terminated Ms. Stillday's lobbyist registration effective February 27, 2019. Mr. Olson said that any lobbyist disbursements by Ms. Stillday in 2019 had been included in the June 2019 report filed by the principal's new lobbyist.

2. Administrative termination of lobbyist John Benske (725)

Mr. Olson told members that AmerisourceBergen Corporation was asking that the registration of Mr. Benske be terminated effective May 31, 2019, which was the date that the principal severed its relationship with Mr. Benske. Mr. Olson said that the principal had stated that Mr. Benske had no lobbyist disbursements to report in 2019. Mr. Olson stated that Board staff had administratively terminated Mr. Benske's lobbyist registration effective May 31, 2019.

After discussion, the following motion was made:

Member Moilanen's motion: To approve the two items on the consent agenda.

Vote on motion: Unanimously passed.

B. Discussion item

1. Request to withdraw registration of political committee JB MOSS VOICE OF THE ELECTORATE (VOTE) (41221)

Mr. Olson told members that the committee, which was registered with the FEC, had registered with the Board in October 2018 believing that to be necessary to contribute to Minnesota candidates. Mr. Olson said that because the committee did not contribute to more than three Minnesota committees, funds, or party units in 2018, it was not required to register with the Board, and was asking that its registration with the Board be withdrawn. Mr. Olson said that the committee had provided the financial disclosure required for unregistered associations pursuant to Minnesota Statutes section 10A.27, subdivision 13.

After discussion, the following motion was made:

Member Rosen's motion: To allow JB Moss Voice of the Electorate (VOTE) to withdraw its registration with the Board.

Vote on motion: Unanimously passed.

C. Waiver requests

<u>Name of Candidate or Committee</u>	<u>Late Fee & 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>
Julie Bleyhl (5934)	\$25 LFF	1st 2019 lobbyist report	Lobbyist was caring for ill parent and lost track of due date of report. Report was filed 6/18/2019.	Member Flynn	To waive the late filing fee	Unanimously passed

2. Health East - \$1,000 in late filing fees, \$1,000 in civil penalties for 2018 principal report

Mr. Olson provided information to members stating that Health East was a lobbyist principal. Health East's sole lobbyist had filed a disbursement report in January 2018 that had listed the name of an individual and a mailing address on the list of the principal's officers that differed from prior reports. Health East did not otherwise inform Board staff that its contact person and mailing address had changed. The lobbyist filed a termination statement in February 2018. Health East had merged with another company in mid-2017 and thereafter had ceased to exist. The contact person Board staff had on file no longer worked for Health East when notices were sent regarding the 2018 principal report. The company that absorbed Health East became aware of the issue and filed Health East's principal report on 6/28/2019, disclosing \$0 in expenditures

Charlie Nauen, Health East's attorney addressed the Board about this waiver request. Mr. Nauen stated that Health East had merged with another company in June 2017 and that the other company also was a lobbyist principal. The new company had filed its required lobbyist reports and believed that those reports included the Health East information. The new company did not receive any notices regarding the late Health East report. Mr. Nauen said that when the new company learned that the Health East report was overdue, it completed and filed that report.

After discussion, the following motion was made:

Member Haugen's motion: To waive the late filing fee and civil penalty that accrued for Health East's 2018 principal report.

Vote on motion: Unanimously passed.

<u>Name of Candidate or Committee</u>	<u>Late Fee & 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>
Mentoring Partnership of MN (5893)	\$500 LFF	2018 principal report	Principal did not update mailing address with Board when it changed in 12/2017 and stated that it was unaware of need to file report until it received letter after due date. Principal's executive director changed in July 2018 and sole lobbyist was terminated effective 5/31/2018. Report was filed 4/13/2019, disclosing \$0 in expenditures.	Member Moilanen	To reduce the late filing fee to \$150	Unanimously passed (Rosen recused)

Village Green Residential Properties LLC (5195)	\$1,000 LFF \$1,000 CP	2016 principal report	Principal did not update mailing address with Board when it changed in 2016 and stated that it did not receive mailed notices regarding report. The sole lobbyist was terminated effective June 1, 2016. Report was filed 6/14/2019, disclosing \$0 in expenditures.	Member Moilanen	To reduce the late filing fee to \$150 and to waive the civil penalty	Unanimously passed (Rosen recused)
Delta Dental of MN (1513)	\$1,000 LFF \$1,000 CP	2018 principal report	Principal's VP, Government Relations, stated he did not receive any notice from Board regarding need to file report until he was called by Board staff in June 2019. Principal's address has not changed. Report was filed 6/26/2019, disclosing \$180,000 in expenditures.	Member Moilanen	To leave the late filing fee at \$1,000 and to waive the civil penalty	Unanimously passed (Rosen recused)

D. Informational Items

1. Payment of late filing fee for 2018 pre-primary 24-hour notice

Flippable - MN Victory Fund, \$250
 Local 28 Political Fund, \$250
 United Food & Commercial Workers Council 6, \$250

2. Payment of late filing fees for 2018 pre-general 24-hour notices

Minnesota Jobs Coalition Legislative Fund, \$150
 United Food & Commercial Workers Council 6, \$250

3. Payment of late filing fee for 2017 year-end report of receipts and expenditures

Friends of Kaying (Thao), \$250

4. Payment of civil penalty for 2017 year-end report of receipts and expenditures

Friends of Kaying (Thao), \$196.50

5. Payment of late filing fee for 2018 year-end report of receipts and expenditures

2nd Judicial District Republican Committee, \$80
 Ali (Ali) for Minnesota, \$400
 Friends of Kaying (Thao), \$250.42
 Mining Industry Leadership Fund, \$625
 Minnesota Jobs Coalition Legislative Fund, \$275
 People for Tom Anzelc, \$85
 Resilient PAC, \$122.50 (partial payment)

6. Payment of civil penalty for 2018 year-end report of receipts and expenditures

Friends of Kaying (Thao), \$196.50

7. Payment of late filing fee for May 2018 report of receipts and expenditures

TEMPO Political Fund, \$100

8. Payment of late filing fee for lobbyist disbursement report due 1/15/2019

Scott Strand, \$25

9. Payment of late filing fee for lobbyist principal report due 3/15/2019

Abbott Laboratories, \$25
Energy Storage Association, Inc., \$325
Iron Mining Association of Minnesota, \$125
MN United Football Club, \$25
Red Lake Tribal Council, \$50
Teach for America, \$75

10. Payment of civil penalty for excess special source contributions

Jeff Hayden for Senate, \$815
Lang (Andrew) for Senate 17, \$395
Benson (Michelle) for Senate, \$1,800

11. Payment of civil penalty for excess party unit contributions

Becker-Finn (Jamie) for 42B, \$40.44

12. Payment of civil penalty for violation of § 211B.12

Ilhan Omar, \$500

13. Return of public subsidy due to exceeding carryforward limit

Ruth (Richardson) for House, \$458.06

14. Return of public subsidy to the extent it exceeded expenditures

Elect Albright (Tony) Committee, \$102.78

FORMAT OF FINDINGS ISSUED BY THE BOARD

Mr. Olson presented members with a memorandum regarding this issue that is attached to and made a part of these minutes. Mr. Olson said that in response to members' interest in other formats for its enforcement decisions, he had attached a copy of a decision issued by the Office of Administrative Hearings (OAH). Mr. Olson said that he also had attached a copy of a recent Board decision and a separate document showing how that decision would have looked in the format used by the OAH.

Members provided feedback on the two formats. Members decided not to change the format for enforcement decisions at this time. Members, however, asked Mr. Sigurdson to choose a suitable enforcement decision on the agenda in September or October and to prepare an example of how that decision would look in the OAH style. After seeing a few more examples of enforcement decisions in the OAH format, members will decide whether to revisit this issue in the regular session of a future meeting.

LEGAL COUNSEL'S REPORT

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn had nothing to add to the legal report.

OTHER BUSINESS

There was no other business to report.

EXECUTIVE SESSION

The chair recessed the regular session of the meeting and called to order the executive session. Upon recess 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.

Respectfully submitted,



Jeff Sigurdson
Executive Director

Attachments:
Executive director's report
Memorandum regarding format of findings issued by the Board
Legal report



MINNESOTA CAMPAIGN FINANCE BOARD

Date: August 7, 2019

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Executive Director's Report – Board Operations

Program Updates

Lobbying Program

Each year Board staff produces a lobbyist summary on disbursements made to influence official actions in Minnesota. The summary provides 157 pages of detailed information on the lobbyists registered for each principal along with total lobbying disbursements reported during the year. The summary also provides an overview of total lobbying disbursements reported for various categories, and identifies the associations that made the largest expenditures by lobbying area in 2018.

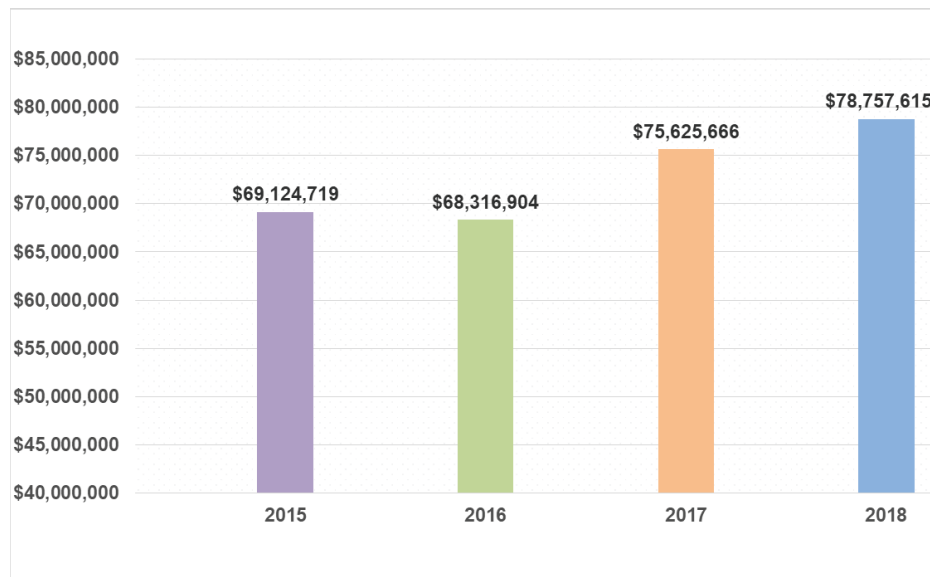
The summary is available on the Board's website at:

https://cfb.mn.gov/pdf/publications/reports/lobbyist_disbursement_summaries/lbsm_2018.pdf

A couple of interesting charts from the summary are shown below.

Lobbyist Principal Disbursements 2015 – 2018

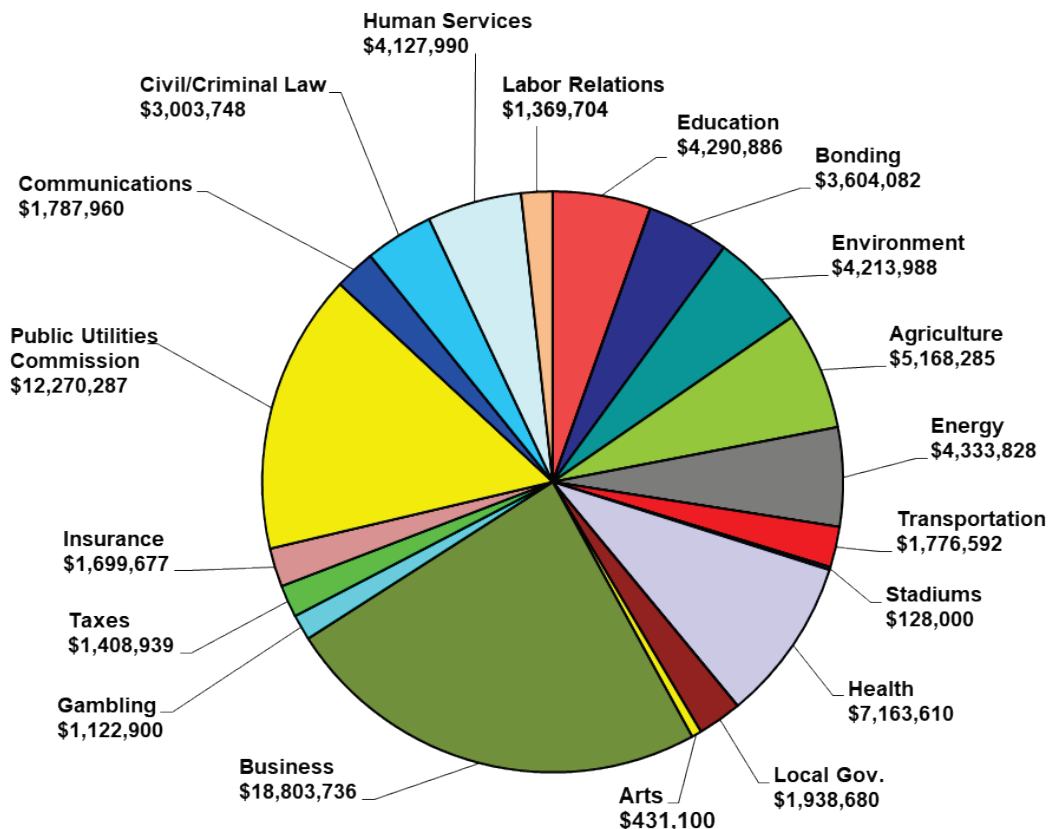
The total amount spent on influencing official actions increased by 10.7% between 2016 and 2017, with another 4.2% increase between 2017 and 2018. However, much of that increase can be attributed to a surge in spending related to the Public Utilities Commission. Spending to influence the Public Utilities Commission increased by 55% between 2016 and 2017, and increased by another 56% between 2017 and 2018.



Expenditures by Lobbying Subject

Once a year the designated lobbyist for each principal reports the subjects on which the lobbyists represented the association. By linking that information to the disbursements reported by the principal's lobbyists you get a fairly accurate picture of the amount spent on lobbying subjects during 2018. Board staff makes some assumptions when categorizing the subjects listed on the lobbyist reports into the nineteen broad subject areas used in the graph.

Expenditures on Selected Lobbying Subjects
As Reported in 2018



Economic Interest Statement Program

Staff has sent out a public official certification to each of the 353 boards, commissions, agencies, and other government units that have public officials who must file an economic interest statement (EIS) with the Board. The certification is used to update Board records on public officials who have been newly appointed, reappointed, or resigned during the year.

By statute appointing authorities are required to notify the Board of public official appointments. Board staff uses the appointment information to explain the EIS requirement and related deadlines to the appointee. In practice however, notifications are often late, and in some cases notification never occurs. Because of inconsistent appointment information the certification is becoming increasingly important to maintaining an accurate list of public officials and providing complete public disclosure of EIS filings.

Online Campaign Finance Reporter

For the past five months the Board's information technology staff have focused on developing an online version of Campaign Finance Reporter to replace the current PC based software. Although the current version of Campaign Finance Reporter is still functional, it requires the Windows operating system. This of course is problematic for a treasurer who has an Apple or Chrome computer.

To date the following steps have been completed or are underway:

- Two upgraded servers, on which the online version of the software and the related committee data will be hosted, have been purchased and installed.
- A test version of the application has been released to Board staff for initial testing. The test application currently has modules for processing contributions and expenditures. Modules for report generation and data importing and exporting are still under development. At some level all Board staff will be involved with the initial testing of the application. As the application matures, I plan to reach out to campaign committees that could spend some time evaluating screen layouts and overall functionality of the application. The web based application needs to be easier to learn, and generally more user friendly, in order for it to be viewed as a success.
- Linking of the application to an encrypted SQL database that will host committee data is scheduled to occur by the end of August.
- Development of online training videos to support the roll out of the application has not yet started.



MINNESOTA CAMPAIGN FINANCE BOARD

Date: August 7, 2019

To: Board members

From: Andrew Olson, Legal/Management Analyst

Telephone: 651-539-1190

Re: Format of Findings Issued by the Board

Historical Format of Findings Issued by the Board

The format of findings issued by the Board regarding investigations has remained relatively consistent since at least the early 1990s. Since 2014, findings have typically been labeled as “Findings, Conclusions, and Order.” On occasion they have been labeled as “Findings of Fact, Conclusions of Law, and Order.” Prior to 2014, they were typically labeled as “Findings and Order” or just “Findings.” The Office of Administrative Hearings (OAH) typically labels findings pertaining to Minnesota Statutes chapters 211A and 211B as “Findings of Fact, Conclusions of Law, and Order.”

Findings issued by the Board have often included one or two sections containing background information, facts revealed by the investigation, a summary of statements made by any complainant as well as the respondent, and the procedural history of the investigation. These sections have been titled “procedural background,” “background,” “summary of the facts,” “evidentiary findings,” or “statement of the evidence,” or had no title at all. Findings pertaining to investigations that were complex or concerned disputed legal issues, in particular, have often included a subsequent section summarizing the legal issues presented by the facts and the arguments offered to the Board, titled “analysis” or “Board analysis.” Since 2014, findings have generally included a subsequent section concisely listing facts that are vital to the Board’s conclusions, titled “findings of fact.” Next, findings have almost invariably contained a section consisting of legal conclusions, titled “conclusions of law,” “findings concerning probable cause,” or “conclusions concerning probable cause.” Finally, findings have contained a final section of text consisting of the order issued by the Board.

Findings issued by the Board have sometimes included pages, following the order, containing the text of relevant statutes and rules. Some findings have included charts or other graphical representations of information important to the investigation. On at least one occasion, the findings have included a memorandum following the order addressing the legal issues raised, as opposed to discussing those issues elsewhere within the findings.¹

¹ [In the matter of the Tim Pawlenty for Governor Campaign and the Republican Party of Minnesota \(Oct. 10, 2002\).](#)

Format of Findings Issued by the Office of Administrative Hearings

The format of findings issued by OAH panels regarding alleged violations of chapters 211A and 211B has varied slightly over time as well. Currently, the OAH generally issues findings containing six sections followed by a memorandum. The findings consist of a very brief untitled section consisting of the procedural history, the names of the complainant and respondent, and whether those parties were represented by counsel. That section is followed by a “statement of the issues” to be decided by the panel, followed by a section containing a very brief “summary of conclusions.” Next come the “findings of fact,” then a section containing the panel’s “conclusions of law.” These sections may consist of several pages, but are still brief and contain little or no discussion. The final section is the panel’s order. The memorandum that follows is part of the same document as the rest of the findings and its pages are numbered accordingly. The memorandum may be brief or extensive and may contain its own headings.

Possible Format to be Utilized by the Board

For purposes of comparison, I have attached the findings issued by an OAH panel in *Bruce v. Our Minnetrista, et al.*, OAH 71-0325-35774, in June 2019. That is followed by findings issued by the Board in January 2019, and a reformulated version of the Board’s findings, using the format utilized by the OAH. The reformulated version of the findings incorporates both the layout utilized by the OAH as well other stylistic differences, such as a 12-point font, the indentation of paragraphs, the use of all caps for headings, the inclusion of the matter’s internal file number, etc. In drafting findings in the future, Board staff could use the layout employed by OAH panels, with or without the other stylistic differences, depending on the preference of the Board.

The layout utilized by the OAH is particularly useful to readers in quickly identifying the conclusions reached and the actions taken, especially when the findings are lengthy. However, findings issued by the Board frequently consist of only 3-4 pages, in which case the utility of that format is limited.

Attachments

OAH Findings in *Bruce v. Our Minnetrista, et al.*

Board Findings in the matter of Perske (Joe) for Senate

Findings in the matter of Perske (Joe) for Senate, reformulated in the format used by the OAH

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD
August 2019**

ACTIVE FILES

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures Unpaid late filing fee on 10/31/16 Pre- General Election Report	\$1,000 LF \$1,000 CP \$50 LF	3/6/18	8/10/18			Board is working on the matter. Placed on hold.
Brenden Ellingboe	Ellingboe (Brenden) for House	Unfiled 2015 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	11/29/16	5/26/17			
Katy Humphrey, Kelli Latuska	Duluth DFL	Unfiled 2016 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	3/6/18	8/10/18			Board is working on the matter. Placed on hold. 3/5/19
Christopher John Meyer	Meyer for Minnesota	2016 Year-End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	7/28/17	9/6/17			
Dan Schoen		2017 Annual Statement of Economic Interest	\$100 LF \$1,000 CP	1/28/19	3/27/19			Placed on hold by Board.

