

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

Findings and Order in the Matter of Contributions to the 4th Congressional District Green Party of Minnesota Committee from the David Unowsky for Council Committee and the Bee Kevin Xiong Campaign Committee

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 4th Congressional District Green Party of Minnesota Committee (the 4th CD GPM) disclosed receipt of a contribution on July 13, 2011, in the amount of \$800 from the (David) Unowsky for City Council Committee, and a contribution on August 12, 2011, in the amount of \$250 from the Bee Kevin Xiong Campaign Committee. Both the Unowsky and the Xiong committees were registered with Ramsey County as the campaign committees for St. Paul City Council candidates. However, neither committee is registered with the Board. Therefore, they are unregistered associations that were required to provide the appropriate disclosure with any contribution in excess of \$100. No financial disclosure was provided with the contributions.

In response to a Board notification of the possible violation Gary Carlson, treasurer of the 4th CD GPM states, "We were under the impression that we were complying with the laws governing proper registration and disclosure when we accepted donations from [the two committees]. Prior to accepting these donations members of our party called the Ramsey County Election office and asked if it was appropriate to receive these donations and if there was a limit to the contributions. We learned that we could accept these donations and that they did not violate any rules on contribution size. We did not ask about state registration and there was no discussion about it in our conversation with the County. ...In good faith we thought that both campaigns had fully complied with the law by registering with Ramsey County and that we were fully complying with the law by accepting the donations without obtaining additional disclosure."

Mr. Carlson further states, "We take transparency and campaign finance rules very seriously and are already taking internal measures to prevent this and other mistakes from happening in the future."

On April 10, 2012, Board staff met with Mr. Carlson, Jim Ivey, and Roger Meyer, who are members of the 4th CD GPM. Mr. Meyer explained that the 4th CD GPM is registered in both Ramsey County and with the Board, and that all contributions and expenditures are made out of

one bank account. Mr. Meyer further explained that a primary purpose of the 4th CD GPM is to support Green Party candidates running for local office in Ramsey County.

In 2011, the 4th CD GPM asked for contributions from St. Paul city council candidates with the idea that the money collected would be used to print campaign pamphlets. The pamphlets that were printed listed the four Green Party candidates for St. Paul City Council equally, and candidates were included and provided brochures regardless of whether they contributed to the 4th CD GPM. Only the Bee Kevin Xiong Campaign Committee responded to the request for contributions with the donation of \$250.

On March 7, 2012, Bee Kevin Xiong came to the Board's office and stated to staff that the \$250 was for brochures, not a contribution. Mr. Xiong also provided a copy of his committee's report to Ramsey County in which the \$250 to the 4th CD GPM is listed as a purchase of campaign brochures.

David Unowsky provided a written response on March 7, 2012, to the Board's notification. Mr. Unowsky states, "I assumed, apparently incorrectly, that my filings with Ramsey County were all that was needed. ...When I decided in 2011 that I wasn't going to run for any office, I disbursed the remaining money, and filed the appropriate documents." The (David) Unowsky for City Council Committee terminated its registration with Ramsey County on September 11, 2011.

This matter was considered by the Board in executive session on May 1, 2012. The Board's decision is based on the correspondence and information received from Gary Carlson, Jim Ivey, Roger Meyer, Bee Kevin Xiong, and David Unowsky and on Board records.

Board Analysis

The decision by the 4th CD GPM to register with both Ramsey County and with the Board is appropriate for a committee that intends to be involved with both state and local level campaigns in Ramsey County. The 4th CD GPM may register and report under both regulatory authorities using only one bank account and one organizational structure as long as it reports all transactions to the Board and assumes the responsibility to operate under two separate and distinct reporting and compliance requirements. Where the provisions of Chapter 10A are more stringent than those of Ramsey County, the more stringent requirements must be followed. In this case two contributions which were permitted under Ramsey County regulations were prohibited under Chapter 10A without additional accompanying disclosure.

The Board has acknowledged on several occasions that it may be confusing for the officers of a committee registered in Ramsey County to view their committee as an "unregistered association" when a contribution is made to a committee registered under Chapter 10A. However, the registration, compliance, and reporting requirements for St. Paul City Council candidates are significantly different than the provisions of Chapter 10A. Without statutory authority, the Board must treat the political committee of candidate for local government as an unregistered association even when the committee files campaign reports with a county or municipality.

Mr. Xiong contends that the \$250 from his committee was not a contribution, but was rather a payment for campaign brochures printed by the 4th CD GPM. For the Board to accept this position there must be some relationship between the amount of money paid by the committee and the number of brochures printed for the committee. Information provided by the 4th CD GPM does not support such a relationship.

There is no evidence of a written, or verbal, agreement that the number of pamphlets printed would relate to the amount of money received from a candidate. Indeed, three of the four candidates who are included on the pamphlet did not pay the 4th CD GPM any amount. Without an agreement that establishes the item to be purchased and the price to be paid, the Board has no basis to classify the \$250 as a payment for campaign brochures.

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

Findings Concerning Probable Cause

1. There is probable cause to believe that the 4th Congressional District Green Party of Minnesota violated Minnesota Statutes, section 10A.27, subdivision 13, when it accepted contributions in excess of \$100 from an unregistered association without receiving the appropriate disclosure with the contributions.
2. There is probable cause to believe that the (David) Unowsky for Council Committee violated Minnesota Statutes section 10A.27, subdivision 13 (b), when it made a contribution in excess of \$100 to the 4th Congressional District Green Party of Minnesota without providing the required disclosure.
3. There is probable cause to believe that the Bee Kevin Xiong Campaign Committee violated Minnesota Statutes section 10A.27, subdivision 13 (b), when it made a contribution in excess of \$100 to the 4th Congressional District Green Party of Minnesota without providing the required disclosure.
4. There is no probable cause to believe that the violations by the 4th Congressional District Green Party of Minnesota, the (David) Unowsky for Council Committee or the Bee Kevin Xiong Campaign Committee 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 \$850, one times the amount by which the contributions exceeded \$100, on the 4th Congressional District Green Party of Minnesota for accepting and depositing contributions from two unregistered associations without the disclosure required by Minnesota Statutes section 10A.27, subdivision 13.
2. The 4th Congressional District Green Party of Minnesota 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 4th Congressional District Green Party of Minnesota is directed to refund \$150 to the Bee Kevin Xiong Campaign Committee and forward to the Board a copy of the check used to return the excess contribution within thirty days of receipt of this order.

4. The Board imposes a civil penalty of \$150, one times the amount that the contribution exceeded \$100, on the Bee Kevin Xiong Campaign Committee for making a contribution in excess of \$100 without providing the disclosure required by Minnesota Statutes section 10A.27, subdivision 13 (b).
5. The Bee Kevin Xiong Campaign 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.
6. In lieu of imposing a civil penalty against the (David) Unowsky for Council Committee, which no longer exists, the 4th Congressional District Green Party of Minnesota is directed to forward to the Board \$700, the amount of the contribution over \$100, by check or money order payable to the State of Minnesota within thirty days of receipt of this order for deposit into the state general fund.
7. If the 4th Congressional District Green Party of Minnesota or the Bee Xiong Campaign 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.
8. 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 the return of the excess contributions and payment by the civil penalties imposed herein, this matter is concluded.

Dated: May 1, 2012

/s/ Greg McCullough

Greg McCullough, Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

Minnesota Statutes section 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.