COMPLAINT FOR VIOLATION OF THE CAMPAIGN FINANCE AND PUBLIC DISCLOSURE ACT

NOV 5, 2012

CAMPAIGN FINANCE & PUBLIC DISCLOSURE BOARD

All information on this form is private and confidential until a finding is issued by the Board.

Information about complaint filer

Name of complaint filer: Pat Shortridge	
Address: 525 Park St Ste 250	
City, state, zip: St Paul, MN 55103	Daytime telephone no.: 651-222-0022

Identify person/entity you are complaining about

Name of person/entity being complained about: MN DFL
Address: 255 E. Plato Blvd
City, state, zip: St Paul, MN 55107
Title of respondent (if applicable)
Board/Department/Agency/District # (if legislator)

Pat Shortridge
Signature of person filing complaint

11/2/12
Date

Send completed form to:
Campaign Finance & Public Disclosure Board
Suite 190, Centennial Building
658 Cedar Street
St. Paul, MN 55155

If you have questions call:
651/296-1721; 800/657-3889; or
for TTY/TDD communication contact us through the Minn. Relay Service at 800/627-3529
Board staff may also be reached by e-mail at: cf.board@state.mn.us.

This document is available in alternative formats to individuals with disabilities by calling 651/296-5148; 800/657-3889; or through the Minnesota Relay Service at 800/627-3529.

Give the statute cite of the portion of Chapter 10A, or Minn. Rules you believe has been violated.
10A.27 Sub 13

You will find the complete text of Minn. Stat. §10A and Minn. Rules Chapters 4501 - 4525 on the Board's website at www.cfboard.state.mn.us .

Nature of complaint

Explain in detail why you believe the respondent has violated Chapter 10A, the Campaign Finance and Public Disclosure Act. Attach an extra sheet of paper if necessary. Attach any documents, materials, minutes, resolutions or other evidence to support your allegations.

See attached Memo.

Minn. Stat. 10A.02, subd 11 - Violations; enforcement.

The board shall investigate any alleged violation filed in writing with the board. For an alleged violation of sections 10A.25 (expenditure limits) or 10A.27 (additional limits) the board shall either enter into a conciliation agreement or make a public finding of whether or not there is probable cause, within 60 days of the filing of the complaint. For alleged violations of all other sections, the board shall within 30 days after the filing of the complaint make a public finding of whether or not there is probable cause to believe a violation has occurred.

The deadline for action may be extended by a majority vote of the board. Within a reasonable time after beginning an investigation of an individual or association, the board shall notify that individual or association of the fact of the investigation. The board shall make no finding without notifying the individual or association of the nature of the allegations and affording an opportunity to answer those allegations.

Any hearing or action of the board concerning a complaint or investigation shall be confidential until the board makes a public finding concerning probable cause or enters into a conciliation agreement.

Except as provided in section 10A.28, after the board makes a public finding of probable cause the board shall report that finding to the appropriate law enforcement authorities.

Introduction

The Minnesota Democratic Farmer Labor Party (DFL) violated Minn. Stat. §10A.27, Subd. 13, by accepting a contribution of more than $100 from an unregistered association without including a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20 ("underlying source disclosure.")

Furthermore, the DFL and The Democratic Legislative Campaign Committee (DLCC), an organization registered under section 527 of the Internal Revenue Code, and funded in part by contributions from corporations and labor unions, violated Minn. Stat. § 211B.15, Subd. 2 by making contributions to the DFL that are prohibited by Minnesota law.

Because of this intentional violation of Minnesota disclosure law and the nature of the contributions (i.e., that their underlying source appears to be prohibited corporate contributions), the DFL and DLCC should be fined the maximum amount under Minnesota law, $2,200,000.00.

Facts

On October 30, 2012, the periodic campaign finance report of the DFL became available to the public. Included in Schedule A1 of the DFL's report ("Contributions Received") are six contributions from the DLCC, (two each on September 25, October 12, and October 19, 2012) the total of which is $550,000.00.

Also filed with the DFL's campaign finance report is a one-page summary from the DLCC which includes a partial list of its contributors from 2012.

As a Section 527 Corporation, the DLCC is required to file periodic reports with the IRS. Several recent reports appear on the IRS's online reporting system which contain multiple pages of the DLCC's contributions and expenses which are not found on the addendum filed with the DFL's report, and which include multiple contributions from corporations and labor unions.

Argument

The DFL violated Minnesota Disclosure laws by failing to report the underlying source of its contributor, the DLCC. The DLCC similarly has violated Minnesota law by failing to include the written statement required by Minnesota statute.

Minn. Stat. §10A.27, Subd. 13 prohibits the treasurer of a party unit from "accept[ing] 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."

Minn. Stat. §10A.20, Subd. 3 details the contents that are required of such "underlying source disclosure" statements. That statement must disclose:

- (a) "...the amount of liquid assets on hand at the beginning of the reporting period."
- (b) "...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*...and the aggregate amount of contributions within the year from each source so

disclosed...The names of contributors must be listed in alphabetical order..." (Emphasis added)

- (e) "each receipt over $100 during the reporting period not otherwise listed"
- (f) "the sum of all receipts of the reporting entity during the reporting period"
- (g) "...the name and address of each individual or association to whom aggregate 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."
- (l) 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 sum of all noncampaign disbursements made within the year by or on behalf of the reporting entity.
- (n) 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.

Minn. Stat. §10A.27, Subd. 17 authorizes penalties against offending associations. Such associations are "subject to a civil penalty of up to four times the amount of the contribution, but not to exceed $25,000, except when the violation was intentional."

As an initial matter, neither the DLCC's relevant 8872s nor the DFL's Pre-General Report indicate that the DLCC made its contributions from a separate account which did not contain corporate funds. DLCC, which is not registered as a political committee in Minnesota, simply reports having made the contributions to "Minnesota DFL Party" on Schedule B of its 8872s filed on October 15 and 25. Meanwhile, the Minnesota DFL's Pre-General Report filed on October 29 identifies these contributions as coming from "DLCC," and lists DLCC's Washington, D.C. address. On its face, then, the available reporting suggests that prohibited corporate dollars may have been used.

State law generally requires that a "political committee" register after making $100 or in contributions to a candidate or committee, including a political party. *See* Minn. Stat. 10A.14 subd. 1. However, assuming that the DLCC lawfully contributed to the DFL as an "unregistered association" in compliance with Minn. Stat. § 10A.27 subd. 13(b), then at least one Advisory Opinion indicates that DLCC's contributions violate Minnesota law due to DLCC's overall acceptance of corporate contributions. *See* Advisory Opinion 371 (Nov. 22, 2005). Noting that there "is no provision in [Minnesota's Campaign Finance Law] that provides for separate accounting for corporate funds held by an organizational contributor to a Minnesota political organization," the Board in that opinion advised that "segregating corporate funds does not appear to be a permissible option." Opinion at 3-4. Citing the broad wording of the relevant statute, which prohibits even "indirect" corporate contributions, the Board reasoned that "simply segregating such funds does not ensure that corporate funds do not indirectly benefit the Minnesota political organization." *Id.* (citing Minn. Stat. § 211B.15).

The attempt by the DLCC and the DFL to "comply" with §10A.27 by filing a one-page sample of some of the DLCC's individual contributors is incomplete at best, and violates Minnesota law. The DLCC's publicly available IRS filings from 2012 includes dozens of pages of itemized contributions that are not included in the DFL's October 29 report. This disclosure, required by §10A.27, Subd. 13 would have disclosed to the public that the DLCC is funded only in small part by the individuals actually disclosed. Had the DLCC and the DFL met the statutory requirements, the public would have learned that the DLCC is funded in significant part by entities that are prohibited from making contributions to Minnesota Political Parties, including corporations and labor unions.

Conclusion

The DFL's attempt to skirt disclosure and withhold important information from the public within days of an election requires the most severe penalty the board can levy. The fact that the DLCC actually files publicly available reports, and that compliance could have been met by simply submitting a copy of those reports, must lead the Board to conclude that the failure to disclose the information included in them to the Minnesota Public must have been intentional – perhaps to avoid disclosure of the fact that had those reports been included, the Minnesota public would have learned that the DLCC is funded by corporations and labor unions, not merely individuals as the DLCC's "underlying source" form implies.

As such, the DLCC should be fined $2,200,000.00 - four times the amount of its violation.

Attachments:

- Minnesota DFL Campaign Finance Report, 10/29/12
- DLCC Underlying Source Addendum
- DLCC Form 8872, Pre-election Report, 10/17/12
- DLCC Form 8872, Third Quarter Report, 9/30/12
- DLCC Form 8872, Second Quarter Report, 6/30/12
- DLCC Form 8872, First Quarter Report, 3/31/12