

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

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

IN THE MATTER OF LOBBYIST AL GARCIA (REG. NO. 9579);

Background

Mr. Al Garcia, having no registered clients at the time, registered as a lobbyist for nine new clients between August 23, 2012, and October 24, 2012. Two more clients were registered on April 19, 2013. When none of the 11 clients filed a 2013 principal's report, due on March 17, 2014, on time, Board staff reviewed the matter and the Executive Director initiated an informal inquiry. The matter was elevated to a formal investigation by Board action on July 7, 2015.

Analysis

In response to a communication about the late principal report, one of Mr. Garcia's clients sent the Board an email indicating that it had never authorized Mr. Garcia to lobby on its behalf. As a result of the email from the principal indicating that Mr. Garcia was not its lobbyist, Board staff undertook further review of these matters. Contacts with several of the principals revealed a pattern. Mr. Garcia was acquainted with a person who was the owner of a small business and offered his services, sometimes without compensation. The several individuals who were questioned indicated that Mr. Garcia's services were to include such things as assisting with regulations or other City of Minneapolis matters. Most of the clients were unaware that by authorizing Mr. Garcia to help them, they were creating a relationship that would require filing reports with the Board on an annual basis.

Mr. Garcia's lobbyist disbursement reports were also reviewed by Board staff. In the course of its review, staff noted that the lobbyist disbursement reports filed by Mr. Garcia were all similar to each other, regardless of the client; typically reporting amounts in round numbers, most often in even hundred dollar increments, using categories for telephone, entertainment, food and beverages, and other categories not ordinarily seen on a lobbyist disbursement report for a small client involved in metropolitan governmental unit lobbying.

A lobbyist disbursement report must be an accurate representation of the money actually spent to advance the principal's lobbying interest. See Minn. R. 4511.0600, subpart 1. It is not sufficient to simply pick a number and attribute it to a principal and a category of spending. The fact that all of Mr. Garcia's expenditures were reported in round numbers and five dollar increments, and because none of his clients reimbursed him for any expenditure or authorized him to spend money on its behalf, suggested to Board staff that these amounts did not reflect money actually spent on a particular principal's work.

Board staff met with Mr. Garcia on December 11, 2014, and explained that lobbyist disbursements cannot be based on rough estimates or round numbers but must be accurate

and supported by adequate records. Board staff also explained that general overhead unrelated to a particular client could not be reported as a disbursement made on behalf of that client. Mr. Garcia insisted that he could document the actual costs incurred and his method or “formula” for allocating them to his clients. However, to date no documentation has been provided, although staff has repeatedly requested this information from Mr. Garcia.

Additionally, even though Mr. Garcia was advised prior to filing reports in 2015 that reporting estimated lump sums for disbursements did not comply with the disclosure statutes, the two reports filed by Mr. Garcia on June 12, 2015, that included disbursements continued the practice of reporting disbursements in round numbers.

On July 30, 2015, and after documentation was not provided as requested, Board staff sent to Mr. Garcia formal inquiries seeking information. Board staff met with Mr. Garcia again on August 31, 2015, to discuss the formal requests for information sent by the Board on July 30, 2015. Mr. Garcia assured Board staff that he would respond to each of the Board’s inquiries. However, Mr. Garcia’s only response was a letter dated September 1, 2015, which only addressed the basis for his lobbyist registrations. Board staff sent Mr. Garcia an additional letter dated September 21, 2015, informing him that his response had not been sufficient and that, if he did not respond, the Board would proceed without his input. To date, no response to this letter has been received.

Based on the investigation, the Board makes the following:

Findings of Fact

1. Mr. Garcia, despite repeated requests by Board staff, has failed to provide records to support the disbursements disclosed on his 2012 – 2014 reports, supporting a conclusion that Mr. Garcia does not have the required records to explain and justify the disbursements disclosed.
2. Mr. Garcia’s use of round numbers, often in hundred dollar increments, on his disbursement reports indicates that the reports themselves are not accurate, because none of the types of expenses reported will typically result in expenses in exact hundred dollar increments. Mr. Garcia continued the use of this practice on his 2015 reports after being advised by Board staff of the correct approach to reporting disbursements.

Conclusions of Law

1. With respect to the lobbyist disbursements he filed from 2012 – 2014, Mr. Garcia violated Minnesota Statutes section 10A.025, subdivision 3(a), which requires an individual to maintain records for four years on the matters required to be reported to the Board, including bills, invoices, worksheets, and receipts, that will provide in sufficient detail the necessary information from which the filed reports and statements may be verified.

2. With respect to his lobbyist disbursement reports filed on June 12, 2015, on behalf of Cedar Towing and Auction and Pepito's Restaurant/Parkway Theatre, Mr. Garcia violated Minnesota Statutes section 10A.025, subdivision 2(b), which prohibits an individual from certifying a report knowing it contains a false statement, when he continued to report round number disbursements, despite being previously notified by Board staff that such an approach is inconsistent with statutory requirements.

Based on the above Findings of Fact and Conclusions of Law, the Board issues the following:

Order

1. Pursuant to Minnesota Statutes section 10A.025, subdivision 3(b), Mr. Garcia is ordered to pay a civil penalty of \$3,000 to the State of Minnesota for failing to keep the required records on matters required to be reported to the Board from 2012 – 2014.
2. Pursuant to Minnesota Statutes section 10A.025, subdivision 2(d), Mr. Garcia is ordered to pay a civil penalty of \$3,000 to the State of Minnesota for falsely certifying his lobbyist disbursement reports due June 15, 2015, on behalf of Cedar Towing and Auction and Pepito's Restaurant/Parkway Theatre.
3. The civil penalties must be paid by check or money order made payable to the State of Minnesota within 30 days of the date of this Order and must be sent to the Board at 658 Cedar St., St. Paul, MN 55155.
4. The investigation of this matter is concluded.

Dated: November 3, 2015

/s/ George A. Beck

George A. Beck, Chair

Campaign Finance and Public Disclosure Board