

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

.....
March 1, 2016

**Room G-31
Minnesota Judicial Center**

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MINUTES

The meeting was called to order by Chair Sande.

Members present: Greenman, Leppik, Oliver (arrived during Executive Director Topics – Budget Report), Rosen (participating by telephone), Sande

Members absent: Flynn

Others present: Goldsmith, Sigurdson, Fisher, Pope, staff; Hartshorn, counsel (arrived during Executive Director Topics – Review of bank reconciliation initiative)

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

CHAIR'S REPORT

Introduction of new member

Chair Sande reported that Governor Dayton had appointed Emma Greenman to the Board. Members introduced themselves to Member Greenman and welcomed her to the Board.

Board meeting schedule

The next Board meeting is scheduled for April 5, 2016.

EXECUTIVE DIRECTOR TOPICS

Status of office operations

Mr. Goldsmith told members that since the last meeting, staff had been busy with the campaign finance, lobbyist, and economic interest reports that were all due in January or early February. Mr. Goldsmith said that staff now was busy looking for and resolving compliance issues shown on the reports. Staff also had conducted compliance and software training since the last meeting.

Website redevelopment update

Mr. Goldsmith told members that progress was being made on the website project. Mr. Goldsmith said that June 1st continued to be a more realistic completion date for the project than the original target date of April 1st.

Budget report

Mr. Goldsmith told members that the Board and its projects were on budget and that there would be some money available to carry forward to the second year of the biennium. Mr. Goldsmith told members that money had been added to the web developer contract because the scope of that project had increased.

Update on live streaming of Board meetings

Mr. Goldsmith told members that this was a placeholder and that this issue would be considered at the April meeting.

Review of bank reconciliation initiative

Mr. Goldsmith presented members with a memorandum on this issue that is attached to and made a part of these minutes. Mr. Goldsmith reviewed the reconciliation initiative and reported on the number and types of requests received. Mr. Goldsmith asked members for guidance regarding the type of information that should be included when the requests for adjustments over \$200 are presented to the Board in April. Members discussed the information that they would like to see with these requests and also asked staff to study whether a training component should be required for larger balance adjustments.

Board direction on staff inquiries related to expenditures

Mr. Goldsmith presented members with a memorandum on this issue that is attached to and made a part of these minutes. Mr. Goldsmith told members that because expenditures now are entered into the Board's databases, staff is discovering more expenditures that could be reported incorrectly or incompletely. Mr. Goldsmith said that staff was seeking direction regarding how to proceed when these types of expenditures were discovered.

After discussion, the following motion was made:

Member Rosen's motion:

To lay this matter over to the next meeting.

Vote on motion:

A roll call vote was taken. All members voted in the affirmative.

Board direction on 2016 EIS late filing fees

Mr. Goldsmith presented members with a memorandum on this issue that is attached to and made a part of these minutes. Mr. Goldsmith told members that some public officials did not receive formal notice of the late fee for annual statements of economic interest. Mr. Goldsmith said that the proposed resolution would ensure that these officials did not incur late fees until after they had received this formal notice.

After discussion, the following motion was made:

Member Leppik's motion: To approve the following resolution:

Resolved, that late filing fees will be imposed on late filers of the 2015 annual statement of economic interest only after they have been sent a written notice that the statement was late and that late filing fees would begin to accrue if the statement was not filed by the date specified in the notice.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

Approval of annual report

Mr. Sigurdson presented members with a copy of the draft annual report that is attached to and made a part of these minutes. Mr. Sigurdson told members that the annual report is statutorily required and that it included information about the 2014 elections. Members asked that the chairs of the policy committees with jurisdiction over the Board be added to the cover letter that submits the report to the governor and the legislature.

After discussion, the following motion was made:

Member Oliver's motion: To approve the annual report as drafted.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

Board information pamphlet

Mr. Sigurdson presented members with a Board information pamphlet that is attached to and made a part of these minutes. Mr. Sigurdson said that the pamphlet was prepared at the chair's request and that it was intended to be a quick reference guide for members to important Board information.

Rules of procedure for Board meetings

Mr. Goldsmith presented members with a summary version and a complete version of the rules of procedure for Board meetings that are attached to and made a part of these minutes. Mr. Goldsmith stated that the Board operates under a modified version of Mason’s Manual of Legislative Procedure.

ADVISORY OPINIONS

Advisory Opinion 442 – Costs of constituent services

Mr. Sigurdson presented members with a brief memorandum on this matter that is not attached to or made a part of these minutes because it identifies the requester. Mr. Sigurdson reviewed the questions submitted by the requester and the proposed answers in the draft advisory opinion. Members then discussed the prohibition on corporate contributions and how that prohibition applies to limited liability companies under Minnesota law.

After discussion, the following motions were made:

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|---------------------------|---|
| Member Greenman’s motion: | To amend the second paragraph on page 6 of the revised staff draft of the proposed advisory opinion 1) to strike the first “or” in the first sentence in the paragraph; 2) to add a comma after the word “allowed” at the end of the first sentence; and 3) to add the following language to the end of the first sentence, “or if the use of the corporate resources is more than minimal and infrequent.” |
| Vote on motion: | A roll call vote was taken. Member Rosen abstained. All other members voted in the affirmative. |
| Member Sande’s motion: | To amend fact number 1 on page 1 of the revised staff draft of the proposed advisory opinion to strike the word “corporation” and replace it with the word “company.” |
| Vote on motion: | A roll call vote was taken. Member Rosen abstained. All other members voted in the affirmative. |
| Member Greenman’s motion: | To amend the revised staff draft of the proposed advisory opinion to delete the last paragraph on page 4 and the first two lines on page 5. |
| Vote on motion: | A roll call vote was taken. Member Rosen abstained. All other members voted in the affirmative. |

Member Greenman's motion: To adopt the revised staff draft of the proposed advisory opinion as amended.

Vote on motion: A roll call vote was taken. Member Rosen voted no. All other members voted in the affirmative.

Partial revocation of Advisory Opinion 400

Mr. Goldsmith presented members with a memorandum on this matter that is attached to and made a part of these minutes. Mr. Goldsmith told members that there was a broad statement in Advisory Opinion 400 that went beyond the scope of the questions presented and that could mislead people into believing that action described would always qualify for independent expenditure treatment.

After discussion, the following motion was made:

Member Greenman's motion: To adopt the following resolution:

Resolved, that the Campaign Finance and Public Disclosure Board amends Advisory Opinion 400, issued July 22, 2008, by deleting the following statement:

Use by one of a consultant's clients of material produced by the consultant for another client does not result in cooperation or coordination between the clients if the material has been published by the producer and the second client obtains the material from public sources.

Vote on motion: A roll call vote was taken. Member Rosen voted no. All other members voted in the affirmative.

ENFORCEMENT REPORT

A. Discussion Items

1. Request for balance adjustment before termination – 5th Senate District DFL (20494).

Mr. Fisher told members that due to redistricting, the 5th Senate District DFL party unit was reconstituted as the St. Louis County DFL (St. Louis 06). The chair and treasurer of the 5th Senate District DFL assumed those roles for the new party unit. The 5th Senate District DFL transferred all of its funds to the St. Louis County DFL (St. Louis 06) but the amount transferred was reported differently by the two party units on their 2012 reports. Mr. Fisher said that the chair and the treasurer initially worked to amend the reports on their own but were unsuccessful due to other issues with the reports, the chair's health problems, and the treasurer's out-of-state employment. Staff therefore began to work more closely with the chair and treasurer on the amended reports and these officers provided the party units' 2012 bank records for verification of the reported transactions.

Mr. Fisher said that the bank records revealed that the 5th Senate District DFL had approximately \$3,000 more in its bank account than it had reported on its 2012 report. Examining previous records showed that the discrepancy dated back at least until 2006 and probably was caused by a previous treasurer's belief that certificates of deposit purchased by the party unit were not party unit assets until they were cashed. Mr. Fisher stated that the bank records showed that all of the money in the 5th

Senate District DFL's bank account was transferred to the St. Louis County DFL (St. Louis 06) and that there was no evidence of any improper use of the party unit's funds. Mr. Fisher said that both party units had filed amended reports that accurately reflected the transfer and their other transactions. Mr. Fisher said that the 5th Senate District DFL was asking the Board to adjust its 2012 beginning cash balance from \$8,221.23 to \$11,523.04. Mr. Fisher stated that if the adjustment was granted, the party unit's 2012 ending cash balance would be zero and it would be able to terminate its registration.

After discussion, the following motion was made:

Member Leppik's motion: To approve the 5th Senate District DFL's request to adjust its 2012 beginning cash balance from \$8,221.23 to \$11,523.01.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

2. Request to withdraw lobbyist registration – Benjamin Skjold.

Mr. Fisher told members that on April 15, 2015, Mr. Skjold registered on behalf of the North American High Speed Rail Group, LLC with the belief that he would lobby on its behalf. However, Mr. Skjold never undertook any lobbying efforts on behalf of the association, was never paid by the association, and never made any disbursements for lobbying purposes. Mr. Fisher said that because Mr. Skjold was not required to have been registered as a lobbyist on the association's behalf, he was asking to withdraw his lobbyist registration. Mr. Fisher stated that Mr. Skjold had yet to file a lobbyist report for the second half of 2015 and that any late filing fee that would otherwise accrue on this report would be waived if the request was granted.

After discussion, the following motion was made:

Member Rosen's motion: To approve Benjamin Skjold's request to withdraw his lobbyist registration.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

3. Request to terminate with a cash balance in excess of \$100 and waive late filing fees – Tom Huntley Volunteer Committee.

Mr. Fisher told members that this committee registered with the Board on November 12, 1991. After working with Board staff to correct certain math errors on a prior report, the committee filed an amended 2014 year-end report on February 22, 2016. The report listed an ending cash balance of \$427.75 as of 12/31/2014. However, at that time the committee had only \$34.19 in its campaign account. Mr. Fisher stated that the committee had forwarded its remaining \$34.19 to the state and was asking the Board to allow it to terminate with a cash balance in excess of \$100 and to waive a late filing fee of \$1,000 that had accrued for failure to file the amended 2014 year-end report.

After discussion, the following motion was made:

Member Rosen's motion: To approve the request of the Tom Huntley Volunteer Committee to terminate with a cash balance in excess of \$100 and to waive the \$1,000 in late filing fees.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

B. Waiver requests

Roll call votes were taken on all motions. The results are listed in the "Vote on Motion" column.

<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>
DFL Senior Caucus	\$200 LFF	2/1/2016 Year-end	Treasurer was in a health care facility at the filing deadline.	Member Leppik	To waive the late filing fee.	Passed unanimously.
Aitkin County DFL Club	\$150 LFF	2/1/2016 Year-end	Treasurer had major health issues.	Member Leppik	To waive the late filing fee.	Passed unanimously.
Abeler Volunteer Committee	\$150 LFF ¹	1/5/2016 Spec. Elec. Pre-primary	Issues with special election database caused data issues that had to be corrected by Board I.T. staff.	Member Leppik	To waive the late filing fee.	Passed unanimously.
Jan Mueller	\$50 LFF	1/15/2016 Lobbyist Report	Principal association informed Board staff in December that it would forward notice to terminated lobbyist. Association later informed Board staff, as the deadline neared, that it had no record of the notice, contrary to the previous conversation, and therefore had not sent it on to Ms. Mueller. Staff sent a new copy of the notice on 1/14/2016 and report was filed on 1/20/2016.	Member Leppik	To waive the late filing fee.	Passed unanimously.
Child Protection League PAC	\$175 LFF	2/1/2016 Year-end	Treasurer stated that she attempted to file report prior to deadline but apparently failed to upload the file. Board logs show activity in software on 1/29/2016.	Member Rosen	To waive the late filing fee.	Passed unanimously.
ZAP 35 (Zachary Phelps)	\$50 LFF	2/2/2016 Spec. Elec. Pre-general	Report was sent via email at 12:03am on 2/3/2016.	Member Rosen	To waive the late filing fee.	Passed unanimously.
55th Senate District DFL	\$175 LFF	2/1/2016 Year-end	Committee did not amend its registered treasurer after a new individual assumed the role. New registration with current treasurer was received on the filing deadline (2/1/2016). On 2/1/2016, the new treasurer attempted to email a	Member Leppik	To waive the late filing fee.	Passed unanimously.

¹ LFF has already been paid by the Aber Volunteer Committee. The granted waiver will act as a reimbursement.

			report to cfb.reoirts@state.mn.us. The correct address is cfb.reports@state.mn.us. The email was corrected and a report was received by the Board on 2/10/2016.			
Friends of Todd Mikkelson	\$50 LFF	2/1/2016 Year-end	Committee mistakenly filed an amended 2014 year-end report on 1/29/2016, instead of the required 2015 year-end report.	Member Rosen	To waive the late filing fee.	Passed unanimously.
Wilkin County DFL	\$25 LFF	2/1/2016 Year-end	Treasurer faxed reconciliation worksheet to Board on the filing deadline under the belief that he was submitting the proper report.	Member Rosen	To waive the late filing fee.	Passed unanimously.
Helm for House Volunteer Committee	\$250 LFF	2/1/2016 Year-end	Candidate stated that he mailed a report on 1/11/2016. No report was received at the Board's offices. A no-change report was received on 2/16/2016. Candidate plans to terminate committee.	Member Rosen	To reduce the late filing fee to \$100.	Passed unanimously.
Matt Saam	\$20 LFF	2/8/2016 EIS	Individual changed jobs in late 2015. Notice was mailed on 12/29/2015 to the address the official listed on his EIS statement.	No motion.		
Minnesota for Marriage	\$150 LFF	2/1/2016 Year-end	Committee did not believe that it was still registered and therefore did not believe that a report was required. The Board mailed the filing bulletin to the treasurer at the registered address on 12/28/2015.	Member Rosen	To reduce the late filing fee to \$46.	Passed unanimously.
Hubbard County Republicans	\$200 LFF	2/1/2016 Year-end	Treasurer moved out of state and the party unit did not update its treasurer information. The Board mailed the filing bulletin to the treasurer at the registered address on 12/28/2015.	No motion.		
Mary Deeg	\$10 LFF	2/8/2016 EIS	Official's ex-employer forwarded notice to her in January. On 1/25/2016, the deadline for filing, individual was unable to gain access to the filing system. Because she attempted to file after business hours she could not reach Board staff by phone. Official assumed that access to filing system was no longer available because of deadline. She did not try to file again until she received an email from Board staff on 2/9/2016.	No motion.		
Mark Giancola for Hennepin Judge	\$300 LFF	2/1/2016 Year-end	Candidate believed that staff sent report on 1/6/16. Candidate did not receive phone call prior to deadline that report had not been received because he was on vacation.	No motion.		

Informational Items

A. Payment of a late filing fee for 2015 Special Election Pre-primary Report of Receipts and Expenditures:

Jim Abeler Volunteer Committee, \$150

B. Payment of a late filing fee for 2015 Year-end Report of Receipts and Expenditures:

Byron Kuster for MN House, \$25
Thomas Lofgren for MN 20A, \$25
Vote for Loonan (Robert), \$50
Mark Olson Volunteer Committee, \$25
Sandy Pappas for Senate, \$25
Friends of Lizz Paulson, \$25
Steve Simon for Secretary of State, \$25

C. Payment of a late filing fee for January 15, 2016, Lobbyist Disbursement Report:

Wendy Meadley, North Amer. High Speed Rail, \$100
Roger Smith, American Citizen, \$25

D. Payment of a civil penalty for misuse of committee funds:

Tim Manthey, \$200 December payment

E. Payment of a civil penalty for failure to timely register as a lobbyist:

Michael Jerich, City of Virginia, \$375
Ronald Jerich, City of Virginia, \$650
Valerie Jerich, City of Virginia, \$650

F. Payment of a civil penalty for exceeding the 2009 special source aggregate contribution limit for House of Representatives:

Bev Scalze Volunteer Committee, \$50

G. Deposit to the General Fund, State Elections Campaign Fund:

Volunteers for Sheldon Johnson, \$100 (anonymous, couldn't determine source)
Julie Rosen for State Senate, \$300 (anonymous, couldn't determine source)

LEGAL COUNSEL'S REPORT

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

MINUTES (January 15, 2016)

After discussion, the following motion was made:

Member Leppik's motion: To approve the January 15, 2016, minutes as drafted.

Vote on motion: A roll call vote was taken. Member Greenman abstained.
All other members voted in the affirmative.

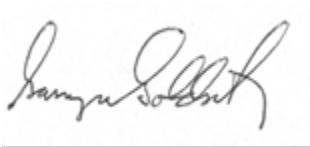
OTHER BUSINESS

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 regular session of the meeting was called back to order and the Chair had nothing to report into regular session.

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



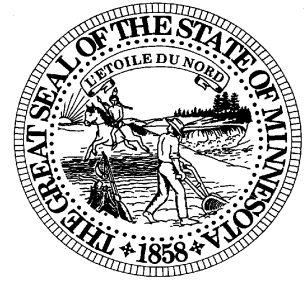
Gary Goldsmith
Executive Director

Attachments:

Memorandum regarding review of bank reconciliation initiative
Memorandum regarding Board direction on staff inquiries related to expenditures
Memorandum regarding Board direction on 2016 EIS late filing fees
Draft annual report
Board information pamphlet
Rules of procedure for Board meetings
Proposed Advisory Opinion 442 as revised by staff
Memorandum regarding partial revocation of Advisory Opinion 400
Legal report

Minnesota

Campaign Finance and Public Disclosure Board



Date: February 23, 2016

To: Board Members

From: Gary Goldsmith, Executive Director

Telephone: 651-539-1190

Re: Requests for one-time balance adjustments

In 2015, the Board began a gentle roll-out of a multi-year program aimed at getting all campaign finance committees and funds to the point where their reported year-end cash balances reconcile to their year-end bank statements. A bulletin on the subject and a reconciliation form were attached to the reporting notices mailed out in December. Committees were asked to return the completed reconciliation form along with a copy of a year-end bank statement but participation was voluntary. Committees with balances that did not reconcile could ask for a one-time balance adjustment. At the December meeting, the Board authorized the executive director to grant one-time balance adjustments of up to \$200.

The response to the reconciliation request was very positive. Many treasurers expressed their thanks for the opportunity to balance their accounts. The following table shows the requests made and granted by type of entity.

	Candidates	Committees and Funds	Party Units	Total
Accounts balance - with bank statement	27	21	61	109
Accounts balance – no bank statement	4	3	7	14
Request for adjustment of up to \$200 – all granted	28	9	12	49
Request for adjustment of over \$200 –pending	6	2	2	10
Total	65	35	82	182

The requests for adjustment over \$200 are pending while staff seeks input from the Board on the issues listed below. Staff expects to bring the requests before the Board at the April meeting. In doing so, staff will provide a brief evaluation of each request. To assist in its evaluations, staff requests that the Board discuss the following factors that may arise in balance adjustment requests.

1. In evaluating an adjustment request, how much weight, if any, should be given to the amount of work done by the committee to determine why the accounts are off; the length of time the committee has been in existence; and the size of the discrepancy.
2. Typically, when a committee has more money in the bank than disclosed on its report and the committee cannot explain where the money came from, the excess funds are deemed to be an anonymous contribution and the committee is required to forward the excess to the

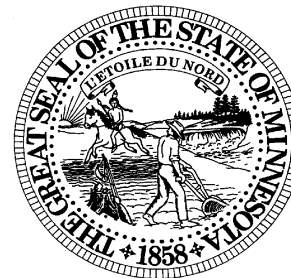
state. Some requests for an adjustment of \$200 or less involved committees that could not explain why they had more money in the bank than disclosed on their reports. Their adjustment requests were granted under the authority delegated to the executive director. In addition, two committees chose to forward their excess funds to the state so that they would no longer have a balance discrepancy or so that the discrepancy would be less than \$200. Some of the committees requesting adjustments over \$200 also have more money in their bank accounts than disclosed on their reports and have not explained where these funds came from. Should these committees be required to forward all, some, or none of the excess funds to the state as anonymous contributions? What criteria should be used to determine the amount, if any, to be forwarded?

3. Are there any other factors that should be considered when evaluating the requests for adjustments of over \$200?

Attached:
Balance adjustment bulletin

Minnesota

Campaign Finance and Public Disclosure Board



Date: February 23, 2016

To: Board members

From: Gary Goldsmith, Executive Director

Telephone: 651-539-1190

Re: Review of expenditures on filed reports

Minnesota Statutes section 10A.022, subdivision 1, provides:

The executive director must inspect all material filed with the board as promptly as necessary to comply with this chapter. . . . The executive director must immediately notify an individual if a complaint is filed with the board alleging, or if it otherwise appears, that a document filed with the board is inaccurate or does not comply with this chapter, or that the individual . . . has failed to comply with this chapter or other provisions under the board's jurisdiction . . .

The Executive Director complies with this requirement through staff activities that include a formal computerized review of each filed report, through the development of data queries to identify non-typical transactions, and through staff review of individual reports.

Transactions that suggest a possible violation of Chapter 10A typically fall into three broad categories: (1) transactions that result from reporting errors or omissions that may be remedied by amending the subject report, (2) transactions that appear to be correctly reported but represent a likely violation, and (3) transactions that fall out of the normal range of activity for similar committees but may be legal, depending on facts that cannot be discovered by review of the filed report. The purpose of this memo is to review how these three types of transactions are addressed by staff and to seek Board guidance on handling the third type of transaction.

The Executive Director handles transactions of the first type routinely by initiating a preliminary inquiry. A preliminary inquiry is not a form of investigation, but simply a request that the filer review the report and file an amendment to correct any deficiencies. If the matter is resolved through the filing of an amendment, no further action is taken and the matter never reaches the Board for action.

The Executive Director most often handles transactions of the second type by initiating a staff review. A staff review is an informal investigation. Because it is a form of investigation, all of the confidentiality provisions of Chapter 10A apply. Staff reviews are presented to the Board each month on a report of open investigations. A staff review is typically resolved by an agreement between the filer and the Board. Matters that are under staff review do not usually involve significant questions of fact and the violation is seldom contested by the filer.

It is not unusual for a matter that begins as a preliminary inquiry to be elevated by the Executive Director to a staff review. This occurs when information provided as a result of the inquiry suggests that a violation, rather than simply a reporting error or omission, has occurred. When a matter under preliminary inquiry is elevated to a staff review, it becomes subject to the confidentiality provisions of Chapter 10A. Since a preliminary inquiry is not confidential, this may give rise to a situation where the Executive Director will be required to inform a third party that the matter has changed in posture and that the confidentiality provisions of Chapter 10A prohibit the Executive Director, staff, or the Board from providing further information about the matter.

The paragraphs below set forth generic examples of the types of transactions that fit into this third category and on which staff seeks direction. These examples are not from specific reports, but are composites of the types of things seen on reports.

1. Mileage reimbursements. Example: the report shows a significant mileage reimbursement, usually at the end of the year, and often in a large round number, such as \$1,000, \$1,500, etc. While the reimbursement may be completely appropriate, the amount, timing, and round number suggest that it was not a reimbursement made on a regular basis, such as monthly, and further suggest that it does not represent a calculated amount that would reimburse the candidate at either the IRS rate or at actual costs.
2. Other reimbursements. Example: A candidate reimburses herself for various expenses, but the reimbursements are typically in round numbers, such as \$50, \$100, when the expense being reimbursed would not typically be in a round amount.
3. Noncampaign disbursements for purposes that are inconsistent with the timing of the noncampaign disbursement. Example: Significant purchases of food for volunteers while campaigning during a time when active campaigning would probably not be taking place.
4. Telephone expenses. Example: Telephone service expenses that are higher than a typical individual plan, even with data and other features.
5. Office rental. Example: Candidates occasionally rent office space for constituent services offices or candidate offices. Since office space rental is unusual, the Board may want the Executive Director to inquire in each such case to ensure that the use of campaign money is permitted for the purpose and that the cost is properly reported.

Beginning with the reports for 2014, expenditures have been captured in the Board's database systems. This has resulted in more examination of expenditures by outside parties and also makes examination by staff easier. After the filing of the 2015 year-end reports, staff had several inquiries by outside parties about specific expenditures. At least two articles on the subject have been published.

The question is: "To what extent should the Executive Director initiate preliminary inquiries when expenditures that raise questions are encountered on reports?"

Now that expenditures are captured in the Board's databases, staff has a tool that would allow the Board be more proactive in its examination of expenditures by registered entities. However, the Executive Director requests Board input on the subject so that staff can implement an approach that the Board supports.

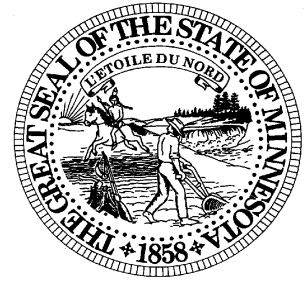
Any approach that relies on staff examination of reports and that results in more inquiries will add to the staff workload. However, the Executive Director believes that as the website project winds down over the next several months, staff resources can be devoted to better expenditure compliance without adversely affecting the Board's overall operations or its ability to provide service to its customers.

One approach to this issue could be as follows:

To the extent that resources are available without adversely affecting the Board's overall operations or its customer service, the Executive Director should examine expenditures reported on campaign finance reports and initiate preliminary staff inquiries in cases where expenditures are inconsistent with the Board's experience with similarly situated filers or otherwise raise a question about the propriety of the expenditure or the accuracy of its reporting. It is the Board's intent that the Executive Director exercise his discretion to initiate preliminary inquiries liberally in the interest of ensuring that campaign finance money is used for the purposes permitted by law and that its use is accurately reported. In cases where appropriate, the Executive Director should elevate preliminary inquiries to staff reviews.

Minnesota

Campaign Finance and Public Disclosure Board



Date: February 23, 2016

To: Board members

From: Gary Goldsmith, Executive Director

Telephone: 651-539-1190

Re: Late fees for 2015 EIS annuals

In the past, a public official was required to submit an annual statement of economic interest (EIS) only if something on the official's previous statement had changed. Last year, the legislature amended this provision to require all public officials to review and recertify their statements annually even if nothing on them had changed. The legislature also moved the due date for the annual EIS from April 15th to the last Monday in January which this year was January 25th.

A late filing fee of \$5 per business day may be imposed beginning the 10th business day after the statement was due. The Board's longstanding policy is that late filing fees are imposed without individual Board action as soon as they are available under the relevant statute.

On December 28, 2015, a letter was sent to all public officials required to file the annual EIS notifying them of the January 25, 2016, due date for this statement.

In all programs, staff attempts to contact filers with outstanding reports shortly before the filing or late fee date to ensure that they know about the deadline and the potential late fee. This outreach typically is done by both telephone and email.

Due to the changes to the annual EIS requirement, staff conducted additional outreach for this report. Public officials who had not yet filed and who had email addresses were sent email notices on January 19, 2016, and January 25, 2016, telling them of the due date and the potential late fee. These officials also received a letter dated January 28, 2016, and a telephone call on February 4, 2016, telling them that the late fee would start on February 9, 2016, if they did not file.

The process used to provide heightened outreach to public officials with email addresses, however, inadvertently resulted in the exclusion of 83 public officials who did not have email addresses from the additional outreach by telephone and through the January 28 letter. These officials received only the pre-filing letter dated December 28, 2015.

Staff recognized this omission on February 10, 2016, and in the process also identified another 32 officials who were not provided additional outreach because they had left office in 2015.

The omitted officials were immediately sent letters notifying them that the annual EIS was past due and that a late fee could be imposed if the statement was not filed by February 22, 2016. The date for late filing fee accrual specified in the letter was the first business day that was 10 days after the date of the letter; an approach intended to give this group notice approximately equivalent to that given to other officials before a late filing fee was imposed. Staff also

telephoned these officials on either February 18th or 19th to remind them of the deadline and the late fee.

Because of the irregularities in notice given to the subject 105 officials, staff recommends that the Board impose late filing fees for this group beginning on February 23, 2016, rather than on the original late fee accrual date for the statement. The following resolution would effect that approach:

Resolved, that late filing fees will be imposed on late filers of the 2015 annual statement of economic interest only after they have been sent a written notice that the statement was late and that late filing fees would begin to accrue if the statement was not filed by the date specified in the notice.

Report of the Minnesota Campaign Finance and Public Disclosure Board



Covering Fiscal Year 2015

July 1, 2014 - June 30, 2015

Issued: March 1, 2016
CAMPAIGN FINANCE and PUBLIC DISCLOSURE BOARD
Suite 190, Centennial Building
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Minnesota

Campaign Finance and Public Disclosure Board

DATE: March 1, 2016

TO: The Honorable Mark Dayton, Governor
The Honorable Sandra Pappas, President of the Senate
The Honorable Thomas Bakk, Senate Majority Leader
The Honorable Kurt Daudt, Speaker of the House
The Honorable Joyce Peppin, House Majority Leader
The Honorable David Hann, Senate Minority Leader
The Honorable Paul Thissen, House Minority Leader

FROM: Christian Sande, Chair
Campaign Finance and Public Disclosure Board

SUBJECT: Report of Board activities during fiscal year 2015 (July 1, 2014, through June 30, 2015)

Pursuant to Minnesota Statutes section 10A.02, subdivision 8 (a), the Campaign Finance and Public Disclosure Board submits this report of the Board's activities during fiscal year 2015.

The Board, consistent with its objectives and administrative procedures, provided guidance to the thousands of individuals and associations whose disclosure of certain political, economic interest, and lobbying activities is regulated by the Campaign Finance and Public Disclosure Act, Minnesota Statutes, Chapter 10A.

Included in this report is information about the campaign finance disclosure, the filing of lobbyist disbursement and lobbyist principal reports, and the filing of statements of economic interest by public officials.

Throughout its activities the Board strives to accomplish its mission; which is to promote public confidence in state government decision-making through development, administration, and enforcement of disclosure and public financing programs and ensure public access to and understanding of information filed with the Board.

We recognize the importance the State of Minnesota places on public disclosure laws and the regulation of campaign finance activity and appreciate the trust placed in the Board and its staff by the Legislature and the Office of the Governor.

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EXECUTIVE SUMMARY

The Campaign Finance and Public Disclosure Board is charged with the administration of the Campaign Finance and Public Disclosure Act, Chapter 10A of Minnesota Statutes. During fiscal year 2015, the Board focused on the administration and enforcement of Chapter 10A during a state election year. The Board also positioned itself to provide better web based access to disclosure records and other information to the public and the regulated community in the years ahead.

For the 2014 – 2015 biennium the legislature appropriated additional funds to the Board in part to support technology projects, including a redesigned website. During fiscal year 2015 the Board surveyed clients about the features on its website that worked, and that didn't work, in order to identify the needs of regular users of the site. The legislature re-appropriated \$150,000 remaining at the end of fiscal year 2015 into the 2016 – 2017 biennium to support the development of the new website.

The Board has long recognized that providing training to candidates and treasurers on the provisions of campaign finance law is a key to ensuring compliance with the requirements of Chapter 10A. To meet the needs of individuals who cannot fit traditional classroom training into their schedules, the Board developed five training videos on various sections of campaign finance law during fiscal year 2015. These compliance videos are available on the Board's website and supplement nine short "how to" videos on using the Campaign Finance Reporter software.

The Board issued \$2,429,596 in public subsidy payments to eligible candidates in the 2014 state general election. The amount paid by office and party and other information on the public subsidy program is available on page 17. A summary of the Board's legislative recommendations for the campaign finance program that were enacted in fiscal year 2015 starts on page 11.

About 1,450 lobbyists were registered with the Board at any one time throughout the fiscal year. The lobbyists represented about 1,400 principals. The principals reported total expenditures of \$70,406,472 in calendar year 2014. Additional information on the lobbyist program is found on page 18.

The economic interest disclosure program requires public officials in approximately 2,800 positions to file economic interest statements with the Board. This number will grow significantly as legislation passed in 2013 takes effect to add judges and county commissioners elected on or after January 1, 2014, to the list of public officials who file with the Board. Details on the economic interest disclosure program are found on page 20.

During the fiscal year, the Board held ten scheduled meetings and one special meeting. During the meetings the Board issued one advisory opinion; reviewed and approved forty-three agreements to resolve violations of Chapter 10A, and issued three findings to conclude investigations.

The Board looks forward to building on its accomplishments in fiscal year 2015 to further improve the services provided to the regulated community and to the public.

INTRODUCTION TO THE BOARD

Authority

The Campaign Finance and Public Disclosure Board was established by the state legislature in 1974 through enactment of Chapter 10A of the Minnesota Statutes. Throughout its history the Board has enforced the provisions of Chapter 10A, promulgated and enforced Minnesota Rules 4501 through 4525, and issued advisory opinions to guide clients in meeting the chapter's requirements.

New authority was given to the Board in 2013, which extended the Board's jurisdiction to three sections of Chapter 211B. Those sections are (1) 211B.04, which governs the "prepared and paid for" form of disclaimer, (2) 211B.12, which specifies the purposes for which campaign money may be legally used, and (3) 211B.15, which governs corporate contributions. The new authority is limited to those individuals and associations already under the Board's jurisdiction under Chapter 10A. The Board's new jurisdiction means that it may conduct investigations of possible violations of these statutes and may also issue advisory opinions on these provisions.

Mission Statement

To promote public confidence in state government decision-making through development, administration, and enforcement of disclosure and public financing programs which will ensure public access to and understanding of information filed with the Board.

Functions

Core functions of the Board include administration and management of the:

- registration and public disclosure by state legislative, constitutional office, and judicial office candidates, political party units, political committees, and political funds;
- state public subsidy program that provides public funding to qualified state candidates and the state committees of political parties;
- registration and public disclosure by lobbyists and principals attempting to influence state legislative action, administrative action, and the official action of metropolitan governmental units;
- disclosure of economic interest, conflicts of interest, and representation of a client for a fee under certain circumstances for designated state and metropolitan governmental unit officials.

Goals and Objectives

- Create better compliance with the Campaign Finance and Public Disclosure Act by moving to an educational model in which providing easy to access information and training reduces the number of violations.
- Provide fair and consistent enforcement of the Act.
- Help citizens become better informed about public issues related to the Act.

Board and Staff

- The Board consists of six members, none of who may be an active lobbyist, a state elected official, or an active candidate for state office. The Board is not non-partisan; rather it is multi-partisan, with no more than three of the members of the Board supporting the same political party.
- The Board was able to maintain eight full time and one part time equivalent positions during the fiscal year. Additional information about Board staff is found beginning on page 22.

Board Member Qualifications

The Board consists of six citizen members who are responsible for the administration of the Campaign Finance and Public Disclosure Act. Members of the Board are appointed by the Governor to staggered four-year terms. Their appointments must be confirmed by a three-fifths vote of the members of each body of the legislature. Two members must be former members of the legislature who support different political parties; two members must be persons who have not been public officials, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the date of their appointment; and the other two members must support different political parties. The Board holds regular monthly meetings, which are open to the public and executive session meetings which are closed to the public.

Board Members - July 1, 2014, through June 30, 2015



Carol Flynn

Carol Flynn was appointed to the Board in February of 2015 by Governor Dayton for a term ending in January of 2019. She fills a Board position requiring a former DFL legislator. Flynn served as a state senator from 1990-2000 where she was Majority Whip and Chaired the Judiciary and Transportation Committees. She studied at the University of Minnesota. A retired public employee, she volunteers on the Minneapolis Transportation Management Organization and as Vice President of the Loring Green West Association Board.



George Beck

George Beck was appointed to the Board in February of 2012 by Governor Mark Dayton for a term ending in January of 2016. He fills a Board position requiring a member who has not been a public official, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the member's appointment. Judge Beck is a retired administrative law judge who served in that position for nearly 30 years. He presently works as an arbitrator with the American Arbitration Association and also serves on the Hennepin County Human Resources Board. Judge Beck holds a BA degree from the University of Chicago and a JD degree from the University of Minnesota Law School.



Ed Oliver

Ed Oliver was appointed in June of 2013 by Governor Dayton for a term ending in January of 2017. He fills a Board position that has no restrictions on previous political activities. Mr. Oliver was a member of the Minnesota State Senate from 1993 - 2002, and served as an Assistant Minority Leader from 1998 - 2002. Mr. Oliver is an arbitrator with FINRA Dispute Resolution, Inc., and is owner and president of Oliver Financial. He currently serves on the board of the Friends of the Mississippi River, and previously served on the Minnesota State Arts Board and as a member of the Great Lakes Commission. Mr. Oliver is a University of Minnesota, College of Liberal Arts graduate where he was awarded a Bachelor of Arts degree with a major in economics.



Margaret Leppik

Margaret (Peggy) Leppik was appointed to the Board in May of 2015 by Governor Dayton for a term ending in January of 2016. She fills a Board position requiring a former Republican legislator. Leppik served as a state representative from 1991-2003 where she chaired the Higher Education Finance Committee. She served on the Metropolitan Council from 2003-2011 where she was vice chair for three years and chaired the Environmental Committee. A graduate of Smith College, Leppik is an active volunteer for numerous nonprofit organizations.



Christian Sande

Christian Sande was appointed by Governor Dayton to the Board in October 2013, and re-appointed in February 2015. His current term expires in January 2019. He occupies a Board position for a member who has not been a public official, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the member's appointment. Mr. Sande is an attorney in private practice focusing on securities fraud litigation and antitrust and consumer fraud class actions. He is a member of the Minnesota and Washington State Bar Associations and the Public Investors Arbitration Bar Association. He is a graduate of Hamline University College of Liberal Arts and William Mitchell College of Law. He volunteers as a GED Tutor at the Open Door Learning Center in North Minneapolis and is a volunteer judge for the Minnesota State Bar Association's high school mock trial program.

Daniel N. Rosen



Daniel N. Rosen was appointed in July, 2014, by Governor Dayton for a term ending in January of 2018. He fills a Board position requiring a member who has not been a public official, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the member's appointment to the Board. A lawyer in Minneapolis, Mr. Rosen is a graduate of the University of Minnesota Law School and a founding partner of the Parker Rosen law firm, where he practices in the field of business and real estate litigation. Prior to law school Mr. Rosen was an officer in the United States Navy and served in Operations Desert Shield and Desert Storm.

Neil Peterson - - Left Board January 6, 2015



Neil Peterson was appointed in February of 2012 by Governor Mark Dayton for a term ending in January of 2016. He filled the position of a former RPM legislator and served as a state representative from 2005 - 2008. Mr. Peterson is active in the second half of his business career in commercial/industrial real estate, client advisory and property management. The first half of his business career was in commercial banking. Concurrently, he was elected to public office in Bloomington, serving four terms on the city council and three terms as mayor; his last term overseeing the construction and opening of the Mall of America. He was appointed to the Metropolitan Council by Governor Carlson and served 4 years before withdrawing from public office in 1999.



Deanna Wiener - - Left Board February 6, 2015

Deanna Wiener was appointed in March 2011 by Governor Mark Dayton for a term ending in January of 2015. She continued to serve until a replacement member was appointed in March of 2015. She filled the position of a former DFL legislator and served as a state senator from 1993-2003. Ms. Wiener has been a Realtor since 1977 and is currently a Broker and Co-owner of Cardinal Realty Co. She is also a partner in land development businesses. Currently she serves as a director to the National Association of Realtors and is a board member of the St. Paul Association of Realtors and serves on the board of the Friends of Mississippi. She is a graduate of St. Mary's Jr. College, now St. Catherine's, with an associate degree in nursing.

Summary of Board Activities

Meetings

The Campaign Finance and Public Disclosure Board held ten scheduled meetings and one special meeting during the fiscal year. At the special meeting the Board's only action item was the adoption of Advisory Opinion 439. Minutes of Board meetings are published on the Board's web site.

**Advisory Opinion
Procedure**

The Board is authorized to issue advisory opinions on the requirements of the Campaign Finance and Public Disclosure Act (Minn. Stat. chapter 10A), Minnesota Statutes sections 211B.04, 211B.12, and 211B.15 if the requestor is under the jurisdiction of Chapter 10A, and the Hennepin County Disclosure Law (Minn. Stat. §§ 383B.041 - 383B.058). Individuals or associations may ask for advisory opinions based on real or hypothetical situations to guide their compliance with these laws.

A request for an advisory opinion and the opinion itself are nonpublic data. The Board provides Consent to Release Information forms to individuals requesting opinions as part of the procedures under this law. If the requester does not consent to the publication of the requester's identity, the Board generally publishes a public version of the opinion, which does not identify the requester.

A written advisory opinion issued by the Board is binding on the Board in any subsequent Board proceeding concerning the person making or covered by the request and is a defense in a judicial proceeding that involves the subject matter of the opinion and is brought against the person making or covered by the request unless: 1) the Board has amended or revoked the opinion before the initiation of the Board or judicial proceeding, has notified the person making or covered by the request of its action, and has allowed at least 30 days for the person to do anything that might be necessary to comply with the amended or revoked opinion; 2) the request has omitted or misstated material facts; or 3) the person making or covered by the request has not acted in good faith in reliance on the opinion.

One advisory opinion was issued in fiscal year 2015. A summary of this advisory opinion is provided in the review of the conflict of interest program.

Education and Training Outreach

To accomplish the goal of educating clients and the interested public on the compliance and reporting requirements of Chapter 10A Board staff conducted the following training during the fiscal year:

- three compliance training sessions for candidates and treasurers and chairs of principal campaign committees, political party units, and political committees and funds.
- five computer lab training classes for clients who use the Campaign Finance Reporter software

An ongoing problem in providing compliance training to treasurers is the difficulty in reaching St. Paul from many locations in Minnesota. Staff does try to schedule some training classes in greater Minnesota, but training sessions held outside of the metro area are always going to be limited in number and may still be inconvenient to attend for some treasurers.

As an effort to provide training available at any time and at any location with web access the Board contracted to develop five online training videos for treasurers. The modules allow viewers to move at their own pace through the topics covered and incorporate quizzes during the training to make the modules more interactive. The Board also maintains nine videos on specific topics related to using Campaign Finance Reporter. The videos are available on the Board's web site. Based on favorable client feedback both of these training tools will be used more extensively in the future.

Additionally Board staff participated in numerous panels, presented at many continuing legal education courses, and spoke to interested groups of the public on the requirements of Chapter 10A.

Use of Technology

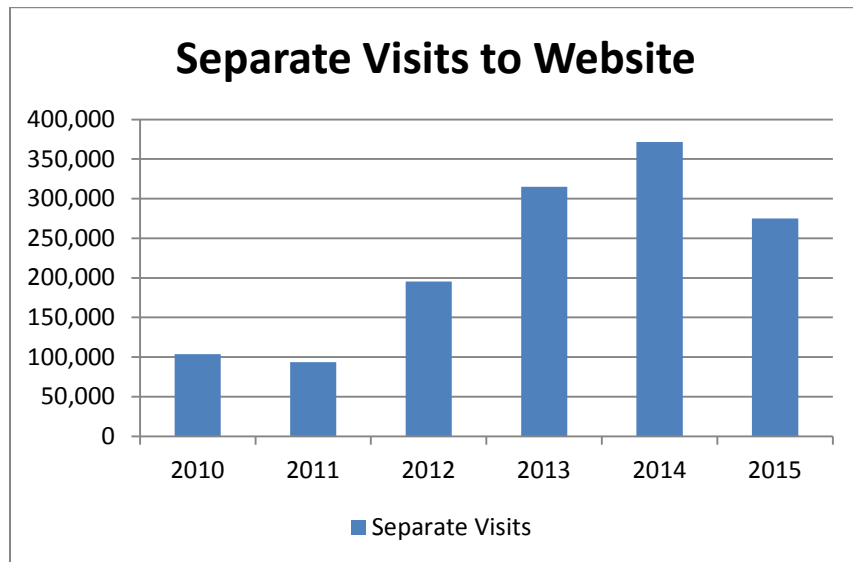
The Board has long recognized the value of receiving disclosure reports in electronic format. Electronic reports may be moved directly into Board databases where the records are analyzed for compliance issues and then exported to the Board's website for faster disclosure to the public. Electronic filing eliminates the cost and errors associated with data entry of paper reports.

To facilitate electronic filing the Board developed web based applications for filing lobbyist disbursement reports, lobbyist principal reports, and the annual certification by public officials of the economic interest statement. Use of these web based applications is optional, clients may still file a paper report, but all three applications have participation rates of over 90%, which indicates that clients also prefer electronic filing.

The Board increasingly turns to the internet to provide the point of access for clients and the general public to Board applications and information. The Board's website monitoring tools are by calendar year, not fiscal year.

The Board website offers

- Board meeting notices and minutes;
- Board enforcement actions - findings and conciliation agreements;
- Advisory Opinions;
- Lists of lobbyists and associations, candidate committees, political committees, political funds, party units, and public officials;
- Copies of all campaign finance and lobbyist reports;
- Electronic filing for lobbyists and lobbyist principals;
- Electronic filing of the *Annual Statement of Economic Interest* for public officials;
- All Board publications and forms;
- Searchable databases of campaign finance contributions;
- Searchable database of independent expenditures;
- Campaign Finance Summaries;
- Lobbyist Disbursement Summaries;
- Annual Report of Lobbyist Principal Expenditures;
- Training videos on the use of Campaign Finance Reporter



PROGRAM REVIEWS

The Board administers three major and several minor programs as authorized by Minnesota Statutes Chapter 10A. The major programs are campaign finance, lobbying, and economic interest disclosure. The review of each major program includes a general description of the program, a review of legislation passed during the fiscal year that affects the program, a review of any Board advisory opinions issued during the time period for the program area, and an overview of administrative activity that occurred during the fiscal year.

CAMPAIGN FINANCE PROGRAM

Program Overview

The Board administers the provisions of Chapter 10A of the Minnesota Statutes that govern campaign finance laws for principal campaign committees, political committees, political funds, political party units, and independent expenditure committees and funds.

During a non-election year these committees and funds file one year-end report disclosing receipts and expenditures to the Board. During 2014 the constitutional candidates and appellate court judicial candidates on the ballot filed six reports as did state central political party units and legislative caucus party units. All other state level candidates on the ballot in 2014 and all other party units filed three reports. Political committees and funds file six reports during an election year. Information on the number of reports filed is found on page 15.

Each filed report is reviewed by Board staff for compliance with the disclosure law requirements, including accurate accounting and reporting, and adherence to applicable contribution and expenditure limits. Violations of contribution and expenditure limits are resolved through either a conciliation agreement, or in some cases, a Board order. Information on Board investigations and enforcement actions is found on page 17.

As a part of the campaign finance program the Board administers and regulates the distribution of payments for the state's public subsidy program, which provides public funding to qualified state candidates and the state committees of political parties. Payments are made following the state primary election to candidates and monthly to the state committees of political parties. Information on the payments is found on page 16.

Legislative Action

The Board proposed a broad package of legislative recommendations to the 2015 legislature. The Board developed the recommendations based on extensive experience with real-world campaign finance and public disclosure issues. The recommendations were designed to provide Minnesota with disclosure that is more rigorous, yet remains consistent with the limits that the First Amendment places on public disclosure systems. The recommendations also included technical and policy/administrative changes necessary to clarify requirements in the statutes under the Board's jurisdiction.

Not all of the Board's recommendations were passed into law, and some amendments were made to the Board's recommendations. Nonetheless, many of the Board's recommendations were passed and became Laws of 2015, chapter 73, when signed by the Governor on May 22, 2015. Chapter 73 amended Minnesota Statutes Chapter 10A in the following ways:

- **Modified investigation procedures and new penalties**

The Board must decide whether a complaint states a prima facie violation of the campaign finance laws immediately after receipt of the complaint. The 60-day timeline for investigating complaints involving contribution or spending limits violations does not begin to run until after the Board has made a probable cause determination in the matter.

The subject of an investigation must preserve evidence related to the investigation after being notified of the investigation.

The Board may impose civil penalties for violations of the chapter 211B provisions that are under its jurisdiction. Those provisions are the disclaimer requirement in section 211B.04, the improper use of political funds under section 211B.12, and the corporate contribution prohibition in section 211B.15.

The Board now has jurisdiction over candidates, political committees and funds, and party units that accept prohibited corporate contributions. Previously, the Board only had jurisdiction over the corporations that made these prohibited contributions.

- **Campaign finance registration and reporting**

A political committee or fund that reaches the registration threshold before the end of a reporting period must register and report by the report due date.

The late fee for campaign finance registrations is increased to \$25 a day and the grace period for these registrations is eliminated.

Candidates whose names will not be on the primary election ballot because they did not file for office are not required to file the June report in an election year.

Recipients must report contributors' Board registration numbers and contributors must report recipients' registration numbers on their campaign finance reports.

- **Disclaimers**

The disclaimer requirement for independent expenditure communications now has a financial triggering threshold that matches the registration and reporting threshold for independent expenditure committees and funds.

There are exceptions to the disclaimer requirement for independent expenditure communications where it is impracticable to include a disclaimer.

The disclaimer requirement for campaign material now has a financial triggering threshold that matches the registration and reporting thresholds in Chapter 10A.

The language of the disclaimer is less formal and the form of the disclaimer is specified when a communication has no cost.

There are exceptions to the disclaimer requirement for material where it is impracticable to include a disclaimer.

- **Public subsidy program**

The Board may impose a civil penalty of up to \$3,000 on a candidate or treasurer who willfully issues a political contribution refund receipt to someone who is not eligible to receive the refund or when the candidate has not signed a public subsidy agreement.

2015 Minn. Laws, chapter 77, section 82, provides that the political contribution refund does not apply to contributions made after June 30, 2015, and before July 1, 2017.

- **Contribution limits and sessional prohibition on contributions**

The limit on individual contributions to judicial candidates is set at \$2,500 over a two-year election cycle segment regardless of whether the candidate is on the ballot during that segment.

The aggregate special source limit does not apply to contributions from large donors.

The prohibition on contributions between the legislative caucus committees and their candidates during the legislative session is removed.

The ban on sessional contributions applies to the entire first and last days of the session.

- **Miscellaneous technical changes**

The right to make unlimited charitable contributions upon termination is extended to political committees and funds and party units.

The Board does not have to withhold publication of a party unit report until the report of the corresponding party unit has been filed.

Provisions related to investigations and audits were renumbered to place them in a new section for violations and enforcement.

A rule which might have been read to permit candidates to accept loans in excess of the statutory limit was repealed.

Rulemaking

In fiscal year 2014, the legislature directed the Board to adopt expedited rules establishing additional procedures for audits and investigations. The Board started this rulemaking in May 2014 and held a public hearing on June 19, 2014. The Board completed the rulemaking in fiscal year 2015 and the expedited rules were effective on December 4, 2014. The new rules establish notice and procedural requirements for investigations and audits and create informal methods for resolving violations of Chapter 10A.

Campaign Finance Litigation

On April 9, 2014, a complaint was filed in US District Court against the Board in an action titled *Seaton, et. al. v. Wiener, et. al.* The action was a First Amendment challenge to Minnesota's "special source limit" which provided an aggregate limit on the amount of contributions that state-level candidates could accept from political committees, political funds, lobbyists, associations not registered with the board, and large contributors. See Minn. Stat. § 10A.27, subd. 11 (2010). The plaintiffs were represented by the Institute for Justice, and the Board was represented by the Office of the Attorney General.

On May 19, 2014, in response to the plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction, the Court enjoined the Board from enforcing the limit as applied to large contributors (individuals who contribute to candidates in amounts equal to more than one-half of the individual contribution limit). In the 2015 legislative session, the legislature amended the aggregate special source limit to remove the large contributor component, thus making plaintiffs' action moot. The Board maintains its enforcement of the limit as applied to political committees, political funds, lobbyists, and associations not registered with the Board.

In fiscal year 2015 the matter was settled and dismissed by the Court. Attorney's fees of \$100,000 and costs of \$2,436.55, to be paid from the State's contingent account, were recommended by the Legislative Advisory Commission and approved by the Governor.

Advisory Opinions Issued Related to the Campaign Finance Program

No advisory opinions related to campaign finance were issued in the fiscal year

Campaign Finance Disclosure Reports Filed

Number of Reports of Receipts and Expenditures filed by candidates, political party units, political committees, and political funds during a reporting year. Reporting years overlap multiple fiscal years.

2014 Election Year	Paper	Electronic	Total
Candidate Committee	177	516	693
Political Party Unit	105	218	323
Political Committee or Fund	65	325	390
Calendar Year 2014 Totals	347	1,059	1,406

Electronic Filing of Reports

Principal campaign committees, political committees, political funds, and political party units have been using the Campaign Finance Reporter software since 1998. The Board provides the software to registered committees without charge. The maintenance, upgrade, training, and helpdesk support of the software is provided by Board staff.

The software provides compliance checks and warnings as records are entered, generates electronic reports for filing that reduce the data entry demands on Board staff, and provides contact management tools for the committees that use the software.

Electronic filing of campaign finance reports became mandatory beginning with the 2012 election cycle. The Board may grant a waiver from the requirement to file electronically if the total financial activity of a committee is less than \$5,000, or if there are technical or other valid reasons why the electronic filing requirement would be an unreasonable burden to the committee.

The Board has developed and distributed a XML schema that is the standard for the electronic filing of campaign finance reports using a third party vendor's software. A total of sixteen committees filed electronically using the XML standard.

Number of Committees Filing Electronically (Numbers are based on calendar year, not fiscal year)

Reporting year	Candidate Campaign Committees	Political Committees, Political Funds, and Political Party Units
2014	516	543
2013	479	526
2012	581	594
2011	327	237
2010	376	174
2009	292	154
2008	278	135
2007	201	114
2006	228	126
2005	174	75

Public Subsidy Payments

The Board administers the distribution of payments for the state’s public subsidy program, which provides public funding to qualified state candidates and the state committees of political parties. Payments to qualified candidates during the 2014 state general election were made in fiscal year 2015.

Payments Made for the 2014 State General Election

To be eligible to participate in the public subsidy program, a candidate must sign and file a public subsidy agreement with the Board in which the candidate agrees to abide by statutory campaign expenditure limits and to limit contributions by the candidate to the candidate’s principal campaign committee. A candidate must also raise a specified amount in individual contributions and file an affidavit stating that this requirement has been met.

Overall 276 of the 312 candidates who filed for state constitutional or state legislative office in 2014 (or 88.5%) voluntarily signed public subsidy agreements.

The Campaign Finance and Public Disclosure Board distributed \$2,429,596 in public subsidy payments to 238 candidates in 2014 (fiscal year 2015). The 238 candidates who received a public subsidy payment represent 85% of the 281 candidates who were on the general election ballot for those offices. The state senate was not on the ballot in 2014.

Public subsidy payments made by office and party in 2014 were as follows:

Office	DFL	RPM	IPMN
Governor	\$541,158	\$394,233	\$0
Attorney General	\$90,421	\$61,035	\$44,155
Secretary of State	\$51,677	\$34,878	\$25,232
State Auditor	\$51,677	\$34,878	\$25,232
Total	\$1,382,110	\$946,019	\$101,464

Political Contribution Refund Program

By statute candidates who sign the public subsidy agreement and political parties are allowed to give political contribution refund receipts to individual contributors. In calendar year 2014 the Department of Revenue issued \$1,227,762 in refunds based on contributions to candidates, and another \$1,805,834 in refunds based on contributions to political parties.

Political Party Payments

The state committees of political parties receive 10% of the tax check-offs to the party account of the State Elections Campaign Fund. Based on monthly certification from the Department of Revenue during fiscal year 2015 the payments to political parties were as follows:

Party	FY 2015
Democratic Farmer Labor	\$42,108
Independence Party of Minnesota	\$4,828
Grassroots Party	\$925
Libertarian Party	\$1,177
Republican Party of Minnesota	\$20,957
Total Payments to State Party Committees:	\$ 69,995

Campaign Finance Enforcement Actions

The Board conducts investigations of possible violations of the provisions of Chapter 10A or those sections of 211B under the Board's jurisdiction. An investigation is started in response to a complaint filed with the Board or may be initiated by staff based on information disclosed on documents filed with the Board.

Investigations of many types of violations are typically resolved by conciliation agreement. The conciliation agreement will set the terms under which the violation is to be remedied, provide for remedial measures to correct the offending behavior, and provide for a civil penalty to the committee. Violations not resolved by conciliation agreement are resolved through the issuance of a Board order. The Board may also issue an order stating that no violation occurred, if warranted.

During fiscal year 2015 the Board issued 43 agreements to resolve violations of Chapter 10A or those sections of Chapter 211B under the Board's jurisdiction. In fiscal year 2015 the Board issued three findings to conclude investigations. During fiscal year 2015 the Board also received 16 complaints. Four of the complaints were dismissed with a finding that a prima facie violation had not been stated. Ten of the complaints were dismissed with a finding that probable cause did not exist in the matter. Probable cause was found in two matters, one of which was resolved through a conciliation agreement with the committee; the other was dismissed by Board order.

To ensure compliance with disclosure deadlines Chapter 10A provides

for late fees applied at the rate of \$25 dollars a day for year-end Reports of Receipts and Expenditures, and \$50 a day for pre-primary-election and pre-general-election Reports of Receipts and Expenditures. Disclosure reports that are filed after a \$1,000 late fee has accumulated may also be subject to an additional \$1,000 civil penalty.

Civil penalties and late fees collected by the Board are deposited in the state general fund. A breakdown of late fees and civil penalties collected through enforcement is provided on page 26.

LOBBYIST PROGRAM

Program Overview

The Board administers the provisions of Chapter 10A that govern registration and public disclosure by lobbyists and principals attempting to influence state legislative action, administrative action, and the official action of metropolitan governmental units.

Lobbyists are required to report disbursements for lobbying purposes to the Campaign Finance and Public Disclosure Board two times each year (January 15 and June 15). On the June 15th report the lobbyist must provide a general description of the subject(s) lobbied on during the previous 12 months.

Individuals or associations that hire lobbyists or spend \$50,000 or more to influence legislative action, administrative action, or the official action of certain metropolitan governmental units, are principals and are required to file an annual report disclosing total expenditures on these efforts. The report is due March 15th, and covers the prior calendar year.

Legislative Action

One of the Board's recommended changes to the lobbyist program was passed and became Laws of 2015, chapter 73, when signed by the Governor on May 22, 2015. Chapter 73 increased the late filing fee for lobbyist registrations to \$25 per day and eliminated the 10-day grace period for these filings.

Advisory Opinions Issued Related to the Lobbying Program

No advisory opinions related to lobbying were issued in the fiscal year.

Lobbyist Disbursement Reports

The Board has developed a web based reporting system for lobbyists. Use of the system is voluntary, but as shown below it is used by most lobbyists as the reporting method of choice. Lobbyist disbursement reports are available for review on the Board web site.

Reporting year	Reports filed	Electronically filed
2014	4,041	96%
2013	3,998	97%
2012	3,823	93%
2011	3,959	94%
2010	3,950	98%
2009	4,028	93%
2008	4,022	92%
2007	3,798	90%
2006	3,445	88%

Principal Expenditures

Chapter 10A requires principals to file an annual report disclosing expenditures made in Minnesota to influence legislative, administrative, or official actions by a metropolitan governmental unit. The disclosure is a single number which may be rounded to the nearest \$20,000. Starting in 2012 principals are required to break out the amount spent influencing administrative action of the Minnesota Public Utilities Commission from all other lobbying. Principal expenditures for the last four calendar years are shown below.

	All Other Lobbying in Minnesota	MN Public Utilities Commission	Total
2014	\$64,517,472	\$5,889,000	\$70,406,472
2013	\$69,185,283	\$5,568,210	\$74,753,493
2012	\$59,060,155	\$2,749,590	\$61,809,745
2011	\$65,241,174		\$65,241,174
2010	\$59,172,799		\$59,172,799
2009	\$62,909,757		\$62,909,757

Lobbyist Program Enforcement Actions

The Board completed one investigation and issued one order regarding the requirement to register as a lobbyist or report as a principal during the fiscal year. This investigation was in response to a complaint filed with the Board. In addition during the fiscal year one lobbyist was fined for making a contribution without providing a lobbyist registration number.

Information on late fees and civil penalties paid by lobbyist and principals for missing a report filing deadline is found on page 26.

ECONOMIC INTEREST PROGRAM

Program Overview

The Board administers the provisions of Chapter 10A of the Minnesota Statutes that govern disclosure of economic interests by public officials and local officials in metropolitan governmental units. There were over 2,800 public officials who filed with the Board in fiscal year 2015. Local officials use forms developed by the Board, but file with the local government unit.

Original statements of economic interest must be filed at the time of appointment, or for candidates, when the candidate files for office. All incumbent candidates and appointed officials must annually review and recertify their statements. The annual recertification is due by the last Monday in January and covers all time served during the previous calendar year. The Board has developed a web based system for submitting economic interest statements.

Legislative Action

The 2015 legislative session produced the following change to the economic interest program:

- **Annual recertification required by the last Monday in January each year**

Public officials must annually recertify their statements of economic interest even if nothing on the statement has changed or they left office during the year. The annual recertification is due by the last Monday in January and covers all time served during the previous calendar year.

Advisory Opinions Issued

No advisory opinions were issued in the economic interest program in fiscal year 2015.

OTHER BOARD PROGRAMS

Potential Conflict of Interest

A public or local official who in the discharge of the official's duties would be required to take an action or make a decision that would substantially affect the official's financial interests or those of an associated business must under certain circumstances file a *Potential Conflict of Interest Notice*, or a written statement describing the potential conflict. If there is insufficient time to comply with the written requirements, oral notice must be given to the official's immediate supervisor of the possible conflict. If the official is not permitted or is otherwise unable to abstain from action in connection with the matter, the public official must file the notice with the Board and a local official must file with the governing body of the official's political subdivision. The statement must be filed within one week of the action taken.

Advisory Opinions Issued

One advisory opinion was issued in the potential conflict of interest program in fiscal year 2015. Advisory Opinion 439 provided that employment by a member of the legislature as the executive director of an association that is represented by a lobbyist does not in itself create a conflict of interest. The opinion also provided, however, that an official action or decision by the legislator may create a conflict of interest under specific circumstances.

Public Employees Retirement Association (PERA) Trustee Candidates

Candidates for election as PERA Trustees are required to file certain campaign finance disclosure reports with the Campaign Finance and Public Disclosure Board under Minn. Stat. § 353.03, subd. 1. Under this statute, the Board prescribes and furnishes to trustee candidates the reporting form and instructions for completing the form.

Enterprise Minnesota, Inc.

The agency name was changed from Minnesota Technology, Inc (MTI) to Enterprise Minnesota, Inc. in 2008. Minn. Stat. §§ 116O.03 and 116O.04 require certain disclosure by the board of directors and the president of Enterprise Minnesota upon appointment and annually thereafter during their terms in office. Under these statutes, the Board prescribes and furnishes to the directors and president the reporting form and instructions for completing the form.

State Board of Investment (SBI)

Minn. Stat. § 11A.075 requires certain disclosure by SBI members upon appointment and SBI employees upon hire and by both annually until termination of appointment or employment. Under this statute, the Board prescribes and furnishes to the members and employees the reporting form and instructions for completing the form.

Representation Disclosure

A public official who represents a client for a fee before any individual board, commission, or agency that has rule making authority in a hearing conducted under Minnesota Statutes chapter 14, and in the cases of rate setting, power plant and powerline siting, and granting of certificates of

need under Minn. Stat. § 216B.243, must file a *Representation Disclosure Statement* within 14 days after the appearance has taken place, disclosing the official's part in the action.

Legislative Action

The 2015 legislative session produced one change to the representation disclosure program. The late filing fee for representation disclosures was increased to \$25 per day and the grace period for these filings was eliminated

Local Pension Plans

Members of a governing board of a covered pension plan and the chief administrative officer of the plan are required to file certain statements of economic interest with the governing board under Minn. Stat. § 356A.06, subd. 4.

The Office of the State Auditor prescribes the statement and instructions for completing the statement. The chief administrative officer of each covered pension plan must submit to the Campaign Finance and Public Disclosure Board a certified list of all pension board members who filed statements with the pension board no later than January 15th. Approximately 755 pension plans are required to file with the Board under this law. The Board does not have jurisdiction over enforcement of this certification requirement.

STAFF DUTIES

Executive Director

Facilitate achievement of the Board's goals and objectives. Set agenda and prepare materials for Board and committee meetings. Direct all agency and staff operations. Draft advisory opinions for Board consideration. Serve as the Board's representative to the Legislature and the Executive Branch. Educate and assist clients in compliance with reporting requirements, limits, and prohibitions. Administer the preparation of the biennial budget.

Assistant Executive Director

Serve as advisor to the Executive Director and assist in management of the operations for the agency. Conduct complex investigations and prepare drafts for Board consideration. Reconcile and report on the Board's financial systems. Supervise the agency's compliance programs and information resources. Administer the state public subsidy payment program. Prepare and conduct training classes for clients on campaign finance reporting requirements.

Legal Analyst - Management Analyst (2 staff members hold this position)

Perform legal analysis, make recommendations, and assist in agency administrative rulemaking and the conduct of Board investigations and drafting findings and orders for Board consideration. These positions also serve as an internal management consultant providing support and analysis to the Executive Director and Assistant Executive Director.

**Compliance Officer
Investigator**

Review reconciliation of reported contributions; perform compliance checks on campaign finance reports filed with the Board. Assist in the conduct of Board audits. Monitor cases for Revenue Recapture and Minnesota Department of Revenue Collections Division. Prepare and submit reports to the Department of Finance regarding civil penalties.

Programs Administrator

Provide for distribution, collection, data entry, and filing of disclosure required by Chapter 10A. Collect, store, and retrieve data for the preparation and analysis of summaries of documents filed with the Board. Provide database advice and guidance to Board staff and clients.

Programs Assistant

Provide assistance with data entry and initial desk review for all filed reports. Assist with mailing, copying, and filing of all documents filed with the Board in all agency programs. Maintain agency receipts for deposit with the State Treasurer. Provide general administrative and program support.

**Information Technology
Specialist III**

Develop, maintain, and manage complex database applications to support administration of all Board programs and activities. Provide technical service, assistance and training to Board staff. Develop, administer, and provide technical support for the Board's website. Provide client training and support in the use of the Campaign Finance Reporter Software.

**Information Technology
Specialist III**

Ensure that the technology resources of the Board support applicable business rules and statutory obligations. Provide application design development and administration in response to management requests. Provide high-level programming. Design and support multiple complex relational databases.

Staff Salaries

Fiscal Year 2015

Position	Staff	FY 2015
Executive Director	Gary Goldsmith	\$109,712
Assistant Executive Director	Jeffrey Sigurdson	\$95,537
Legal - Management Analyst	Jodi Pope	\$36,186
Legal - Management Analyst	Kyle Fisher	\$56,457
Investigator	Joyce Larson	\$56,403
Information Technology Specialist 3	Jon Peterson	\$69,543
Information Technology Specialist 3	Gary Bauer	\$61,981
Office and Administrative Specialist Principal	Marcia Waller	\$47,528
Office and Administrative Specialist Intermediate	Andrew Schons	\$35,879
Office and Administrative Specialist Intermediate	Tesia Zietlow	\$3,606
Student Worker Clerical	Daniel Hegg	\$2,450
Total Salaries		\$ 575,286

BOARD FINANCIAL INFORMATION

Biennial Budget - Fiscal Year 2015

Income Summary	FY 2015
Appropriation	\$1,000,000
Operating budget balance forward-fiscal year 2014	\$230,591
Total	\$1,230,591
Expenditure Summary	
Operating budget expenditures	(\$1,052,093)
Cancel \$150,000 in unexpended fiscal 2015 funds and appropriate the same amount in fiscal year 2016 for website development	(\$150,000)
MNIT Odyssey Fund – MNGeo Services	(\$22,407)
Returned to State General Fund	(\$6,091)

Board Operating Budget

The Campaign Finance and Public Disclosure Board is funded by a direct appropriation from the Minnesota Legislature. The appropriation for fiscal 2015 was one million dollars. Funds not expended in the first year of a biennium roll forward into the next fiscal year. Over 80% of the Board's budget is used to pay the fixed costs of salary and benefits, rent, and postage for required mailings.

Salary and Benefits	FY 2015
Full time staff (salary and fringe)	\$700,461
Part time staff (salary and fringe)	\$47,935
Other Employee Costs	\$672
Per diem for Board Members	\$4,400
Salary and Benefits Sub Total of Expenditures	\$753,468
Operating Expenses	
Office rent	\$39,491
Postage	\$12,478
Photocopy machine leases	\$4,683
Travel	\$3,700
Printing	\$1,371
Staff development	\$5,668
Board Meeting Expenses	\$2,173
Supplies	\$6,438
MNIT services	\$8,565
Court Reporter and Subpoena Costs	\$3,385
Equipment	\$14,349
Computer Systems Development	\$36,314
Information technology professional services	\$151,608
Other purchased services	\$8,402
Operating Expense Sub Total of Expenditures	\$298,625
Board Operating Budget Total Expenditures	\$1,052,093

Penalties Paid for Late Filing of Disclosure Reports and Other Violations of Chapter 10A

The following is a listing of fees and fines paid during the fiscal year. Some fees and fines may have been assessed prior to fiscal year 2015, and some fees and fines assessed during the fiscal year were not paid by June 30, 2015.

Late Filing Fees	FY 2015 Dollars Paid	Number of Violations
Candidate Campaign Committees	\$7,272	43
24-Hour Notice	\$3,081	13
Political Committees and Funds	\$7,220	46
Political Party Units	\$1,900	7
Economic Interest Statements	\$350	14
Lobbyist Disbursement Report	\$3,215	37
Lobbyist Principal Annual Report	\$6,925	59
Total Late Fees	\$29,963	219

Civil Penalties	FY 2015 Dollars Paid	Number of Violations
Contribution from Unregistered association	\$887	9
Unregistered Association	\$850	7
Political Committees and Funds	\$12	1
Political Party Units	\$0	0
Candidate	\$25	1
Contribution limits violations		
Candidates accepted in excess of limit	\$2,938	7
Special source (20%) aggregate limit	\$409	5
PCF Contribution exceeded limits	\$2,450	2
Excess lobbyist contributions	\$200	1
Excess party unit contribution	\$0	0
Candidate exceeded spending limit	\$3,721	1
Prohibited contributions during session		
Political Committee and Funds	\$0	0
Lobbyist	\$250	4
Lobbyist failure to provide reg. number	\$50	1
Failure to file disclosure report		
Candidate Committees	\$2,000	2
Political Committees and Funds	\$0	0
Political Party Units	\$0	0
Lobbyist	\$0	0
Lobbyist Principal	\$0	0
Failure to file amended report	\$1,000	1
Economic Interest Statement	\$0	0
Independent expenditure violation	\$0	0
Other	\$17	1
Total Civil Penalties	\$14,572	35
Total Late Fees and Civil Penalties Deposited in State General Fund	\$44,535	254

Staff Contact Information

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Cell 952-212-4029
jeff.sigurdson@state.mn.us

General Office Line

651-539-1180

Office Fax

651-539-1196

Board Mission Statement

To promote public confidence in state government decision making through development, administration, and enforcement of disclosure and public financing programs which will ensure public access to and understanding of information filed with the Board.

Member Contact Information

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Emma Greenman

Office: 612-384-0638
emmagreenman@gmail.com



Information for Board Members

2016 Meeting Schedule

Tuesday, April 5

Tuesday, May 3

Tuesday, June 7

Tuesday, July 5

Tuesday, August 2

Tuesday, September 6

Wednesday, October 5

Tuesday, November 1

Tuesday, December 6

Applicable Statutes for Board Members

Conflict of Interest

- Board members cannot hold a political party office or a partisan political office.
- A Board member may not be a registered lobbyist.
- A Board member must disclose to the Board any representation of a client for a fee before a board, commission, or agency that has rulemaking authority.
- A conflict of interest arises if a Board member takes an action or makes a decision that would substantially affect the member's financial interests unless the affect is no different than the affect on others in the member's business, profession, or occupation.
- A conflict of interest is not created solely from a Board member knowing or previously having been affiliated with a party that appears before the Board. Board members may recuse themselves from a vote if the member deems it necessary.

Open Meeting Law

- The open meeting law requires public notice of the meeting and must be open to the public.
- A meeting at which four or more members discusses, decides, or receives information relating to official business is covered by the open meeting law.

- Serial emails, or emails with a respond to all answer, are considered an electronic meeting and covered by the open meeting law.
- A social gathering is not covered by the open meeting law as long as Board business is not discussed.
- The Executive Session is not open to the public, but must be recorded.

Confidential and Non Public Data

- A request for an advisory opinion and the opinion itself are nonpublic unless the requestor agrees to make them public. The Board may publish the opinion, or a summary of the opinion, however it must not identify the requestor.
- Staff or Board members should not confirm or deny that a complaint has been filed, or that an investigation has been opened.
- Board members should not discuss investigations with anyone other than staff or other Board members prior to the issuance of findings or the signing of a conciliation agreement.
- Board findings and conciliation agreements are placed on the Board website at the conclusion of an investigation. Most documents and other information gathered during an investigation are available for public inspection in the Board's office. But, information on how members voted in executive session, and the recordings of executive session, are never public information.

Participating by Telephone

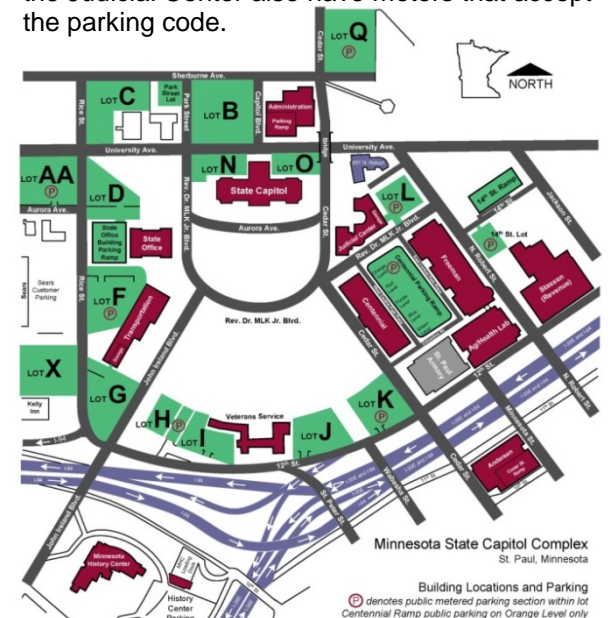
If travel makes it difficult for a member to attend a Board meeting it may be possible to participate and vote by phone. Contact staff as soon as possible if you are interested in using this option.

Gift Prohibition

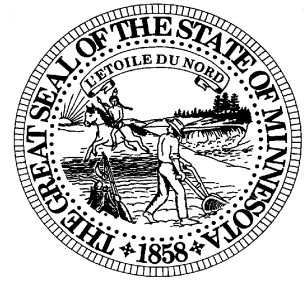
- Generally, a Board member may not accept food or beverage from a lobbyist.
- A Board member may accept a trinket if it's cost was no more than \$5.
- There are some situations where a meal or more expensive gift may be accepted. Contact staff for more information.

Parking Locations

Parking lots with the **P** symbol accept the parking code sent to members. The parking code changes every month. The street level parking between the Centennial Office Bldg. and the Judicial Center also have meters that accept the parking code.



Campaign Finance and Public Disclosure Board



Campaign Finance and Public Disclosure Board Procedural Rules for Meetings Summary

Rules: The Board operates under a modified version of Masons Manual of Legislative Procedure

Quorum: A quorum is four members attending either in person or electronically under specific statutory authority. A meeting may not be called to order unless a quorum is present and must recess if less than a quorum is present.

Presiding officer: The chair is typically the presiding officer, but meetings may be presided over by the vice chair or some other member.

Direction to staff by consensus: Often staff seeks Board input or direction in a less formal way than through motion. In these cases, the Board will discuss the matter under consideration so that staff can hear the input from each member who speaks on the subject. In these cases a motion is not typically made and no vote is taken.

Board decisions or direction to staff by motion: Formal action or direction to staff is by motion. Any member may make a motion, which must be accepted by the presiding officer if in order. The presiding officer will usually restate the motion, and must restate it if there is any opportunity for a lack of clarity as to what is being voted on. After discussion, the presiding officer will call for a vote. Four members must vote affirmatively to take any action.

Use of seconds: The rules do not provide for the use of seconds to any motion.

Amendments: Amendments may be proposed by any member. An amendment may be proposed as a friendly amendment, which may be accepted by the author of the original motion, or as an amendment on which a vote will be taken. The chair may take up amendments for individual votes, or, without objection, may incorporate amendments into the main motion and call for a vote only on the main motion.

Motion to lay over: When the Board does not have time to act on a matter that must be resolved by motion, or when the matter requires additional work by staff, or for any other reason, the matter may be laid over to the next Board meeting. A motion to lay over ends discussion of the matter at the present meeting and places it on the agenda for the next meeting.

Executive session: Most meetings include a session that is not open to the public. Without objection, the presiding officer will recess the regular session and call to order the executive session. Upon completion of the business in regular session, the presiding officer may, without objection, adjourn the executive session and call the regular session back to order.

Adjournment: Without objection, the presiding officer may adjourn the regular session of a meeting.

Objection: When the presiding officer may take an action "without objection," any member may object, in which case the action may be taken only after an affirmative vote on a motion.

Procedural rules for meetings of the Campaign Finance and Public Disclosure Board

Introduction

The Board often acts through consensus. Direction to staff may be by informal means or by formal resolution. Any official action of the Board is taken by motion; usually to adopt a resolution or to adopt, either as offered or as amended, draft materials provided by staff. Historically the Board has operated under a slightly modified version the rules set forth in Mason's Manual of Legislative Procedure. This document sets forth the most common procedural rules applicable during Board meetings.

Meetings

No action of the Board may be taken other than at an official meeting. Meetings must be called and noticed according to the requirements of the Minnesota Open Meetings law.

Chair, vice chair, acting chair

The order of precedence for presiding over a meeting is (1) chair, (2) vice chair, and (3) acting chair. If a meeting is being presided over by a person of lower precedence and a member of higher precedence joins the meeting, the gavel should be turned over to the member of higher precedence. A member of higher precedence who has the gavel may turn it over to a member of lower precedence for any part of a meeting.

Quorum

A quorum of the Board is four members, who may be physically present or participating electronically under the terms of the Open Meetings Law. No meeting may be called to order unless a quorum is present.

Call to order

Once a quorum is present and the noticed time for the meeting has arrived, a properly noticed meeting may be called to order by the presiding member. However, it is the custom and practice of the Board to delay the call to order for a reasonable period of time if it is known that other members are expected at the meeting. It is also the custom and practice that a lower-ranked presiding member will not call a meeting to order if a higher-ranked member is expected to arrive at the meeting within a reasonable amount of time.

Recess

A recess results in a pause in a meeting; not the end of the meeting. If there is no objection, a meeting may be recessed by the presiding member without vote or motion. A recess may be to a new date and time certain or for a specific period of time. If any member objects to the recess, a vote shall be taken.

Any member may move a recess at such time as the member has the floor. A motion to recess may not be made during the vote on a main motion.

Motions

Proposals for official Board action are made through motions. Any member may make a motion. A motion need not take a particular form as long as it is clear as to the action the moving member proposes to take. A motion is under consideration once the presiding officer accepts the motion. It is the duty of the presiding officer to accept any properly made motion that is in order. A resolution is usually a written statement, the adoption of which is requested by motion to adopt the resolution.

Seconds to motions

Seconds to motions are not required or in order.

Withdrawal of motions

A member making a motion may withdraw the motion at any time before a final vote on the motion has been taken. Withdrawal of a motion does not require a vote.

Amendment of motions

A member making a motion may amend the motion at any time before a final vote on the motion has been taken. An amendment by the moving member does not require a vote.

Friendly amendments

When a motion is under consideration and another member has a suggested modification, the member may propose the modification as a friendly amendment. The author of the motion under consideration may accept the amendment and the motion under consideration becomes an amended motion including the friendly amendment. If the moving member does not accept the amendment as friendly, the member proposing the modification may move to amend the original motion.

Motions to adopt findings, agreements, statements, and similar substantive decisions; amendments

Substantive decisions are often presented in draft form by staff. To adopt any such decision, a motion is required. It is often the case that minor or major changes to draft materials are considered before adoption of the final decision.

The presiding officer may handle amendments to written materials in several ways. It is the custom and practice of the Board that small non-substantive amendments, such as those needed to correct typographical, grammatical, or other minor errors are incorporated into the main document without separate motion. In such case, the presiding officer ascertains that members and staff understand the changes and will call for a vote on the motion to adopt the written decision "as amended."

When there are more complex amendments, multiple amendments, or amendments that may change the tone or substance of the draft decision, the chair may take up each amendment separately or may group similar amendments and entertain a motion to adopt the amendments. This form of motion does not constitute final action on the decision, but is limited to considering the amendment(s) that are the subject of the motion.

Under the approach that considers amendments separately from the main matter, once all amendments have been considered, the presiding officer will call for a vote on the main matter, as amended.

The essential element of a motion, including a motion to amend, consists of the proposal actually made and not of the precise words used. Therefore, if exact language cannot be developed during a Board meeting, the presiding officer may, nevertheless, call for a vote on the motion. In such case, the presiding officer will work with staff and, typically, with the member whose motion was adopted to ensure that the proposal made in the motion is accurately conveyed in the language included in the final adopted document.

If the presiding officer elects to incorporate amendments into the main motion without a vote on each individual amendment, any member may object and a motion and vote on each individual amendment must be taken.

Motions to lay over

When a matter that requires a motion and vote to bring it to conclusion cannot be concluded at a meeting, a motion to lay over is in order. A motion to lay over is the same as a motion to

postpone definitely, which is to defer consideration of the matter to a definite future time. It has been the Board's custom and practice to lay matters over until the next meeting when they cannot be resolved at the present meeting either due to lack of time or because additional work needs to be done on the matter.

Adjournment

If there is no further business to come before an executive session or a regular session of a meeting, the presiding officer may adjourn that session of the meeting.

Executive session

The executive session of a meeting is the session that is not open to the public because of the confidentiality provisions of Chapter 10A. Typically the executive session takes place during or near the end of the regular session of a duly called meeting.

If there is no objection, the presiding officer may recess the regular session and call the executive session to order, either immediately or after a specific time delay. If there is objection, the recess must be upon motion and vote. The recess of the regular session will typically be stated as lasting until adjournment or recess of the executive session.

When there is no further business to come before the executive session, the chair may adjourn the executive session. Upon adjournment of the executive session, the presiding officer will call the regular session back to order, at which time any remaining business on the regular session agenda may be taken up.

The executive session of a meeting may be recessed by the presiding officer without objection, or by motion and vote if there is objection.

State of Minnesota
Campaign Finance and Public Disclosure Board
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

THIS ADVISORY OPINION IS PUBLIC DATA

**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NON PUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b)**

RE: Noncampaign Disbursement for Constituent Services

ADVISORY OPINION 442

SUMMARY

A candidate's campaign committee may, under certain circumstances, pay for use of office space as a constituent service. Payment to a corporation in an amount equal to the fair market value of the goods or services provided is required to avoid a prohibited contribution from the corporation.

FACTS

As a member of the Minnesota Legislature, you request an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts that were provided in the letter requesting the advisory opinion and in discussions with Board staff.

1. You are the sole owner of a professional office that is registered in Minnesota as a limited liability corporation. You are the only professional practicing in that office.
2. You also own another business. Both the professional office and the other business are located in a leased two-room business office. The office space is rented from an unrelated third party.
3. You periodically meet with constituents in the business office. There is no specific meeting area within the business office for meeting with constituents. The same space and furniture used for meeting with business clients is also used for meeting with constituents.
4. You have not kept a log of your meetings or phone calls with constituents. You estimate that you meet with individuals in the business office on constituent issues between one and four times a week. Additionally, you take between one and ten phone calls a week while at your business office from constituents with issues that you may be able to address as a legislator. The number of meetings and phone calls at your business office is significantly less during legislative session when you spend the majority of your time in St. Paul.
5. Although infrequent, you occasionally receive a phone call or visit at the business office that is related to your campaign for reelection.

6. You are considering placing a sign on the outside of the business office that would serve two purposes. A portion of the sign would identify the office as a location to meet with you, or call you, in your role as a legislator. The other portion of the sign would identify the office as the location of your professional office.

INTRODUCTION

The use of a candidate's campaign committee funds is controlled by Minnesota Statutes section 211B.12. The limitations on corporate contributions to candidates are found in Minnesota Statutes section 211B.15. The Board was first given the authority to issue advisory opinions on these two provisions of chapter 211B in 2014, and this is the first advisory opinion issued under that authority.

Minnesota Statutes section 211B.12 limits use of campaign funds to activities intended to influence elections and to the noncampaign disbursements defined in Minnesota Statutes section 10A.01, subdivision 26. Section 211B.12 also provides an overall restriction on the use of campaign funds by providing in part, "Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use."

Minnesota Statutes section 211B.15 limits the donation of corporate funds and resources to influence elections. Candidate committees are prohibited from accepting corporate donations, either cash or in-kind contributions.

The noncampaign disbursements currently established by the legislature in Minnesota Statutes section 10A.01, subdivision 26, identify permitted uses of campaign funds that are not directly related to influencing voters at an election. Noncampaign disbursements do not count against the spending limit applied to candidates who sign a public subsidy agreement.

Relevant and applicable to this opinion is the noncampaign disbursement identified in section 10A.01, subdivision 26(6), which in part provides:

...services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents,...

The term "services for a constituent" is defined in Minnesota Rules 4503.0100, subpart 6, as follows:

"Services for a constituent" or "constituent services" means services performed or provided by an incumbent legislator or constitutional officer for the benefit of one or more residents of the official's district, but does not include gifts, congratulatory advertisements, charitable contributions, or similar expenditures.

Whether a constituent service qualifies as a noncampaign disbursement depends on when the service is provided. A constituent service qualifies entirely as a noncampaign disbursement if the service occurs from the beginning of the term of office of the elected candidate to adjournment sine die of the legislature in the election year of the office held by the candidate. For the sixty days following adjournment sine die a constituent

service is classified as 50% noncampaign disbursement and 50% campaign expenditure. More than sixty days after adjournment sine die, the entire amount spent on a constituent service is a campaign expenditure.

To have constituents you must be an elected official, therefore, this noncampaign disbursement is available only to incumbents.

The Board has previously held that in order to qualify as a constituent service there must be an actual service provided. The Board has acknowledged the cost of printing and mailing an unsolicited informational mailing to constituents, the cost of providing a mailed response to a specific request from a constituent, and staff costs directly related to providing constituent services may be paid for with campaign committee funds and reported as noncampaign disbursements, (during the appropriate time frames).¹

Also relevant to this opinion are Minnesota Rules 4503.0100, subpart 3a, and 4503.0800, subpart 4, which, when read together, provide that shared office space and services must either be paid for at fair market value, or considered to be an in-kind contribution at fair market value. Fair market value is defined as the amount that an individual would pay for the same or similar service or item on the open market.

ISSUE ONE

May your campaign committee pay for some portion of the rent of your business office as a noncampaign disbursement for providing constituent services?

OPINION

The Board approaches this issue with three concerns: 1) what is the actual service provided to constituents; 2) could the use of the business office be a prohibited corporate contribution; and 3) is it possible that a payment with committee funds for use of the office could result in a conversion to personal use.

The service that is evaluated in this opinion is the use of the business office as a location for interacting with constituents. The Board has previously recognized in investigative findings that the cost of operating a constituent service office in the legislator's district may be paid for with committee funds and, depending on when the office was open, reported as either a campaign expenditure or a noncampaign disbursement.² The Board accepted that the office was a service to constituents because it provided a location within the district to meet with the legislator, leave phone messages, and in general provide easier access to the legislator.

The use of the business office in this opinion provides the same advantages, and is a service to constituents. Therefore, campaign committee funds may be used to pay for some portion of the business office operating costs.

¹ See Advisory Opinions 248, 275, 294, 307, 313, and 378. Opinions are available online at www.cfboard.state.mn.us/ao/index.html.

² See Findings regarding a complaint against Representative Greg Davids, October 15, 2004. The finding is available online at www.cfboard.state.mn.us/bdinfo/investigation/101504Davids.pdf

The constituent service office examined in the investigation referenced above was not shared with any other entity or business. This made it easy to determine the costs associated with operating the office and, by extension, the amount to be reported as a noncampaign disbursement. The single purpose use of the constituent office also meant there was no danger of a prohibited contribution from any other entity that shared the office.

In the facts of this opinion the business office space is not exclusively, or even primarily, used as a service to constituents. Further, as provided in the facts of this advisory opinion, there are no discrete additional costs associated with assisting constituents at the business office. The same office space and furniture used to run the businesses housed at the office are used when meeting with a constituent. Similarly, no additional staff or office equipment has been added to the business office to accommodate constituents who come to the office.

Payments from the campaign committee to the business must reflect actual use to avoid an inadvertent corporate contribution that might occur if the amount paid is not fair market value for the services received.

As stated in the facts the requester has not kept a log of constituent visits or phone calls, and acknowledges that the number of calls and visits can vary dramatically week to week. For a payment to be accurate it must be based on a record that can justify the payment. The payment cannot be based on an approximation of actual use. Therefore, a log of constituent meetings will need to be kept. A log of the number, dates, and duration of visits is also needed to meet the record keeping requirements of Minnesota Statutes section 10A.13, which requires the campaign committee treasurer to obtain a receipted bill, stating the particulars, for every committee expenditure in excess of \$100.

Finally, the Board is concerned that payments from the campaign committee for use of the business office could result in a conversion of committee funds to personal use. Because there are no additional identifiable costs to the business to support the constituent meetings, the payments received from the campaign committee will in effect partially pay the business operating costs, and therefore increase the profitability, of a business owned by the legislator. To avoid this, committee payment must again reflect the fair market value of the actual use of the office, not an approximation.

Paying the fair market value of an item like office space requires keeping an accurate log of the amount of time the office is used for constituent services, and then using that information to calculate what percentage of time the office is used for constituent services. The percentage of time the office is used for constituent services is used to determine the percentage of the lease costs that should be paid by the committee.

Any additional identifiable office costs, for example the use of a copier or a dedicated phone line, must be added to the fair market value of the space provided.

This opinion should not be interpreted as an expansion of constituent services to include payment for the use of *any* space where the legislator meets with constituents. Specifically, this opinion should not be read to suggest the Board's approval of a campaign committee's payment for use of space in a legislator's home for either constituent services or campaign purposes. It is the Board's opinion that such a

payment could result in a conversion to personal use prohibited in Minnesota Statutes section 211B.12.

ISSUE TWO

During an election year may your campaign committee pay your business for some portion of the rent of the business office as a campaign expenditure?

OPINION

As noted in the introduction section of this opinion, the noncampaign disbursement for constituent services is available in full only during a certain time frame. In a year in which the legislator's office is on the ballot the adjournment of the legislature sine die starts a sixty-day period when the cost of the use of the business office is classified as 50% noncampaign disbursement, and 50% campaign expenditure. More than sixty days after adjournment sine die the entire amount spent on the use of the business office is a campaign expenditure.

Because all campaign expenditures count against the spending limit for a candidate that signed the public subsidy agreement, the campaign committee will need to monitor the payments to the business office carefully through the end of the election year.

To the extent that payments for constituent services as a noncampaign disbursement are approved in Issue One, payment for the campaign expenditure portion of those services is also approved.

ISSUE THREE

Should your campaign committee reimburse your business if you receive a call related to your election campaign at work?

OPINION

While this opinion is safe harbor only to the requester under the specific facts in the request, the Board believes that this question reflects a common quandary faced by both challengers and incumbent candidates. Namely, is a payment from the campaign committee to the candidate's employer or business required if the candidate takes any action related to the election while at work? While acknowledging that candidates should always be aware that corporate contributions to their campaigns are prohibited, the Board finds it unrealistic to expect that a candidate will never have a conversation or phone call related to the campaign during working hours. Such a standard would be both unreasonable and, as a practical matter, unenforceable.

Employers recognize that employees will need to make or receive the occasional personal phone call or visitor while at work. Allowing an employee to accept a personal phone call or visitor is a benefit given to the employee by the employer. If, as an example, the employee decides to use a personal phone call to order more lawn signs for the campaign, that phone call does not become a corporate contribution to the candidate's committee. Instead, the personal call made while at work is from the employee who made the call, not the employer that allows the call to occur.

Typically the employer expects that personal phone calls or visits will be short in duration, limited in number, and that they will not significantly interfere with the employee's work. The value of a personal phone call or meeting, treated as a contribution from the employee, is unlikely to reach the threshold where in-kind contributions must be recorded and reported by the campaign committee.³

It is important to note that a corporate contribution to a campaign committee may occur if the employee's activity causes an actual increase in the corporation's operating costs, or if the employee is given greater latitude to make personal phone calls or visits related the campaign compared to the number of personal calls or visits other employees are allowed. As examples, the use of an employer's photocopier or a phone bank to support the campaign must be paid for with committee funds to avoid a prohibited corporate contribution.

ISSUE FOUR

Is the cost of preparing and displaying a sign advertising your location and phone number as a member of the legislature a constituent service that may be paid for by the committee and reported as a noncampaign disbursement?

OPINION

The Board addressed a very similar set of facts regarding a sign providing contact information for a member of the legislature in Advisory Opinion 275. In that opinion the Board concluded that the definition of constituent services "...is to be interpreted narrowly, the Board concludes that advertising your availability to answer questions is not the provision of a constituent service." This opinion also provided that the requester could pay for the cost of the sign with the legislator's campaign committee funds if the expense was reported as a campaign expenditure. The Board concludes that the result reached in Advisory Opinion 275 is equally applicable to the facts now before it.

If a sign is divided and used for more than one purpose, as described in the facts of this opinion, the committee should pay only for that portion of the sign used to advertise information on contacting the legislator.

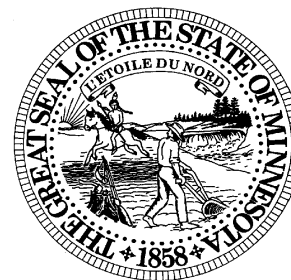
Issued: March 1, 2016

Christian Sande, Chair
Campaign Finance and Public Disclosure Board

³ Minnesota Statutes section 10A.13, subdivision 1, provides that a campaign committee does not need to keep an account of in-kind contributions valued at \$20 or less.

Minnesota

*Campaign Finance and
Public Disclosure Board*



Date: January 8, 2016

To: Board members

From: Gary Goldsmith, Executive Director

Telephone: 651-539-1190

Re: Amendment of Advisory Opinion 400

Advisory Opinion 400 was issued on July 22, 2008. It responded to a requester's series of questions about a political consultant's work for both for a candidate and an association that would make independent expenditures affecting that candidate's election. The requester wanted guidance concerning how the consultant's work for the candidate and the association should be separated in order to avoid destroying the independence of the association's independent expenditures.

The Board approved a series of policies and procedures that would protect the independence of the subject independent expenditures. The Board concluded that the consultant would have to maintain essentially separate divisions that could not communicate with each other.

For your information, I attach a copy of the public version of the opinion to this memo. The public version is identical to the nonpublic version except that the requester is not identified. The requester's identity is not relevant to the issue discussed in this memo.

In the opinion, the Board addressed the time period in which the consultant would be required to maintain two separate operating divisions, as follows:

The period of time within which to examine whether there is sufficient isolation between the work being done for two clients begins when the work for the first client commences and ends at the later of (1) the date that the consultant's work for both clients ends or (2) the end date of the election cycle.

This makes sense because if separation is maintained during that time period, there can be no cooperation or implied consent. However, the Board went further than the request asked, making the following additional statement:

Use by one of a consultant's clients of material produced by the consultant for another client does not result in cooperation or coordination between the clients if the material has been published by the producer and the second client obtains the material from public sources.

This statement was not required to answer the questions posed and, based on more recent examination of independent expenditures by the Board and by the Federal Election Commission, may not accurately reflect the law regarding re-use of candidate materials.

While the Board has implicitly approved the re-use of photos published on a candidate's website and has declined to find cooperation when a party unit used a few seconds of a candidate's published video segment, the Board has limited its approval of re-use of candidate materials to these two situations. In considering the matter of re-use of video footage in a gubernatorial election, the Board specifically limited its conclusion to the use of only 3-5 seconds of video out of a much larger segment. The language of Advisory Opinion 400 could be read to suggest that once a candidate publishes campaign material, others can re-publish it in full and still treat the costs as independent expenditures. The Board has not reached such a conclusion except as suggested in Advisory Opinion 400.

Staff brings this matter to the Board's attention so that the Board has the option of amending Advisory Opinion 400 to remove the subject statement. Authority to amend advisory opinions is provided in section 10A.02, subdivision 12(b)(1). Amendment of this opinion by removing the subject statement would not establish any new policy with respect to re-use, but would eliminate the suggestion that wholesale re-use of a candidate's complete publications or other campaign materials would necessarily qualify for independent expenditure treatment.

Should the Board wish to amend this section, the following motion would be in order:

Resolved,

That the Campaign Finance and Public Disclosure Board amends Advisory Opinion 400, issued July 22, 2008, by deleting the following statement:

Use by one of a consultant's clients of material produced by the consultant for another client does not result in cooperation or coordination between the clients if the material has been published by the producer and the second client obtains the material from public sources.

Attachment
Advisory Opinion 400

	Cedar Towing & Auction	2014 Lobbyist Principal Report-Late filing 2014 Amended Principal Report	\$1,000/\$1,000	10/13/2015	12/31/2015			Closed
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