

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

.....  
**November 14, 2022  
Blazing Star Room  
Centennial Office Building**  
.....

**MINUTES**

The meeting was called to order by Vice Chair Soule.

Members present: Asp, Leppik, Rashid (arrived during chair's report), Soule, Swanson

Members absent: Flynn

Others present: Sigurdson, Engelhardt, Hager, Olson, staff; Kaisershot, counsel (arrived during executive director's report)

**MINUTES** (October 5, 2022)

The following motion was made:

Member Leppik's motion: To approve the October 5, 2022, minutes as drafted.

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

**CHAIR'S REPORT**

**2022 and 2023 meeting schedule**

The next Board meeting is scheduled for 9:30 a.m. on Thursday, December 15, 2022.

**EXECUTIVE DIRECTOR'S REPORT**

Mr. Sigurdson presented members with a memorandum that is attached to and made a part of these minutes.

**Campaign finance reports**

Mr. Sigurdson stated that there are currently a few outstanding 2022 pre-general reports. Mr. Sigurdson explained the efforts taken by Board staff to ensure reports were timely filed.

## **Annual Report of Board Operations for Fiscal Year 2022**

The Annual Report of Board Operations by Fiscal Year is required by statute, and is filed with the Legislative Reference Library, the Governor's office, and legislative leadership. Mr. Sigurdson provided a brief overview of the document. After discussion the following motion was made:

Member Soule's motion: To approve the annual report.

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

## **Lobbyist disbursement summary**

The Board produces an annual summary of disbursements made on lobbying in Minnesota. The summary for calendar year 2021 is now complete and available on the Board's website. Mr. Sigurdson stated that annual lobbying disbursements increased by just over 8% in 2021 and also described the contents of the 2021 Lobbying Disbursement Summary.

## **RECONCILIATION OF CONTRIBUTIONS**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson said that each year Board staff tries to identify instances in which contributions reportedly made and received by registered entities are not reflected by the reports filed by each entity. Mr. Sigurdson said that there is \$17,750 in 2021 contributions that has yet to be reconciled, but 99.77% of 2021 contributions have been reconciled. In response to a question from Vice Chair Soule Mr. Sigurdson explained two common causes of reconciliation issues. Mr. Sigurdson stated that registered entities sometimes report contributions with an incorrect source or recipient due to confusion caused by similar names among committees, funds, and party units. Mr. Sigurdson said that another cause is contributions made toward the end of a calendar year but not reported as received until the following calendar year.

## **MEMBER SWANSON'S PROPOSAL ON STAYED FINES**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson stated that typically a conciliation agreement regarding a prohibited contribution or a contribution limit violation requires the return of the excess or prohibited contributions and imposes a civil penalty equal to the amount of a violation, for a first-time violation. Mr. Sigurdson explained that in that instance, approximately 75% of the penalty is typically stayed until the end of the election segment, then if there is no subsequent similar violation that portion of the civil penalty is waived.

Member Swanson stated that the purpose of his proposal is to eliminate the routine use of stayed fines, but a stayed fine may be appropriate in some instances. In response to a question from Member

Leppik, Member Swanson said that he does not expect his proposal to change the amount that a committee is required to immediately pay, and that Board staff may recommend that a committee be required to pay a percentage of the violation amount. Member Swanson said the rationale for his proposal is that in several cases the Board has imposed a stayed civil penalty via a conciliation agreement when he does not feel that there was a good reason to do so.

In response to questions from Vice Chair Soule and Chair Rashid, Mr. Sigurdson said that he believes the Board collects a small percentage of stayed civil penalties, likely less than 5%. Mr. Sigurdson said he does not have any problem with generally requiring immediate payment of the full amount.

In response to a question from Ms. Engelhardt, Member Swanson stated that he did not mean for his proposal to impact the amount of the civil penalty to be paid. Vice Chair Soule said he is fine with the proposal and stated that he feels that the amounts violators have been required to pay initially have been appropriate. Vice Chair Soule said his preference is that Board staff not recommend higher civil penalty amounts in reaction to the change proposed by Member Swanson.

In response to a question from Chair Rashid, Mr. Olson said that a stayed civil penalty is useful in some instances, especially those in which a committee would have a hard time paying the stayed penalty. Mr. Olson also said that if the Board generally won't stay a substantial portion of a civil penalty for a first-time violation, then a conciliation agreement will be rather similar to findings, and he feels that the Board should provide an incentive to committees to agree to a conciliation agreement.

Vice Chair Soule said that committees will have an incentive not to commit the same violation because a second violation would be cause to impose a higher civil penalty for the second violation. Member Asp said he supports the proposal and said he would like more analysis of the factors underlying a recommended civil penalty amount. Chair Rashid spoke in favor of the proposal. Member Leppik spoke in opposition to the proposal. A straw poll was taken by show of hands with Members Asp, Rashid, Soule, and Swanson voting in favor of the proposal, and Member Leppik voting in opposition to the proposal. Mr. Sigurdson recommended implementing the change in approach starting with violations that occur after the end of the 2021-2022 election cycle segment.

## **ENFORCEMENT REPORT**

### **A. Discussion Items**

Except for discussion item 2, the following requests were voted on via a single motion which is described at the bottom of the following list.

#### **1. Request to refer matter to the Attorney General's Office – Lobbyist Ernest Avalos III**

Ernest Avalos III (4723) has been a lobbyist registered with the Board since February 7, 2020. Mr. Avalos failed to file his lobbyist disbursement report that was due June 15, 2022. He has incurred the maximum late filing fee of \$1,000. There is no civil penalty because a certified letter was not sent.

Numerous notices were sent to Lobbyist Avalos regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

**2. Request to refer matter to the Attorney General's Office – Lobbyist Meagan Perry**

This request was withdrawn by Board staff because Ms. Perry has now filed a lobbyist termination statement and has communicated with Board staff regarding the outstanding late filing fees.

**3. Request to refer matter to the Attorney General's Office – Lobbyist Stephanie Ohlmann**

Stephanie Ohlmann (4861) has been a lobbyist registered with the Board since January 1, 2021. Ms. Ohlmann failed to file her lobbyist disbursement report that was due June 15, 2022. She has incurred the maximum late filing fee of \$1,000. There is no civil penalty because a certified letter was not sent. Numerous notices were sent to Lobbyist Perry regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

**4. Request to refer matter to the Attorney General's Office –Lobbyist Principal Trace**

Trace (7629) was a lobbyist principal that had one lobbyist registered with the Board from June 1, 2019 through May 28, 2021 and filed annual reports with the Board for 2019 and 2020. Trace failed to file its Annual Report of Lobbyist Principal that was due March 15, 2022 for the 2021 calendar year. Trace has incurred the maximum late filing fee of \$1,000 and the maximum civil penalty of \$1,000. Numerous notices were sent to Trace regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

**5. Request to refer matter to the Attorney General's Office –Lobbyist Principal Environment America dba Environment Minnesota**

Environment America dba Environment Minnesota (6403) was a lobbyist principal that had lobbyists registered with the Board from 2010 through May 31, 2021, and filed annual reports with the Board for 2010 through 2020. Environment America failed to file its Annual Report of Lobbyist Principal that was due March 15, 2022, for the 2021 calendar year. Environment America has incurred the maximum late filing fee of \$1,000 and the maximum civil penalty of \$1,000. Environment America further owes a \$675 late filing fee for the 2019 Annual Report of Lobbyist Principal. Numerous notices were sent to Environment America regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

**6. Request to refer matter to the Attorney General’s Office – Ashley Burg (Senate candidate)**

Ms. Burg filed her affidavit of candidacy on May 31, 2022. Her original statement of economic interest due June 14, 2022, has not been filed. Ms. Burg has incurred the maximum late filing fee of \$100 and the maximum civil penalty of \$1,000 for the EIS. Multiple notices were sent to Ms. Burg regarding the need to file the EIS. Staff is asking the Board to refer the matter to the Attorney General’s Office to seek an order compelling filing of the EIS and payment of the balance owed.

The following motion was made:

Member Soule’s motion: To approve the requests stated within discussion items 1, 3, 4, 5, and 6.

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

**B. Waiver Requests**

Entity	Late Fee/ Civil Penalty	Report Due	Factors and Recommended Action	Board Member's Motion	Motion	Vote on Motion
1. MPA Political Action Committee (41040)	\$100 LFF	September 2022	Report due September 27, 2022, and filed October 3, 2022. Treasurer thought report had been submitted prior to the deadline and when contacted by Board staff before the due date, he was unable to file the report because he was out of town . Board staff was able to verify the PAC tried to submit a report on September 15, 2022 but the process did not complete, likely due to internet issues on the PAC's end. Ending cash balance of \$2,610 as of October 24, 2022. RECOMMENDED ACTION: Waive	Swanson	Approve the staff recommendation	Unanimously passed

<p>2. UAW Minnesota CAP Council Political Fund (30035)</p>	<p>\$25 LFF</p>	<p>September 2022</p>	<p>Report due September 27, 2022, and filed September 28, 2022. Had telephone call with Board staff on 27th at which time she thought the report was submitted along with an amended pre-primary report. The Board received the amendment but not the September report, so she filed it the next day. Ending cash balance of \$28,785 as of October 24, 2022. RECOMMENDED ACTION: Waive</p>	<p>Swanson</p>	<p>Approve the staff recommendation</p>	<p>Unanimously passed</p>
<p>3. Zupancich for Senate (18863)</p>	<p>\$500 LFFs</p>	<p>Pre-Primary 24-Hour Notice (x2) and 2022 Pre-Primary</p>	<p>\$400 in LFFs for two 24-hour notices due July 24, 2022, but not filed until July 28, 2022. \$100 LFF for pre-primary report due July 25, 2022, but not filed until July 27, 2022. Former treasurer had a partner with serious health issues. Said computer issues were partially to blame. Once candidate took over reporting, issues quickly resolved. New treasurer now in place. Ending cash balance of \$9,383 as of October 24, 2022. RECOMMENDED ACTION: Waive</p>	<p>Swanson</p>	<p>Approve the staff recommendation</p>	<p>Unanimously passed</p>
<p>4. PAL 9 National Association of Letter Carriers (40246)</p>	<p>\$100 LFF</p>	<p>September 2022</p>	<p>Report due September 27, 2022, and filed October 3, 2022. Report was late due to internet connection not being compatible with CFB software. Was able to file once learned of mistake and used different internet. Ending cash balance of \$8,440 as of October 24, 2022. RECOMMENDED ACTION: Waive</p>	<p>Swanson</p>	<p>Approve the staff recommendation</p>	<p>Unanimously passed</p>

<p>5. Roger Kittelson 20A Campaign Committee (18956)</p>	<p>\$550 LFF</p>	<p>2022 Pre-Primary</p>	<p>Report due July 25, 2022, and filed received by the Board August 9, 2022. Treasurer attempted to file the report on July 23, 2022, after talking with Board IT staff but the report was not received that day. When the treasurer realized the report was not received by the Board he again contacted Board staff August 7, 2022, spoke with Board IT staff on August 8, 2022, to resolve the issue and was able to submit on August 9, 2022. Ending cash balance of \$559 as of October 24, 2022.        RECOMMENDED ACTION: Waive</p>	<p>Swanson</p>	<p>Approve the staff recommendation</p>	<p>Unanimously passed</p>
<p>6. Leigh Finke for MN (18807)</p>	<p>\$1,000 LFF</p>	<p>Pre-Primary 24-Hour Notice</p>	<p>Notice due August 5, 2022, and provided October 10, 2022. Contribution totaled \$1,000. Notice was not provided timely due to the treasurer not understanding the software. New treasurer has been put in place. Ending cash balance of \$18,323 as of October 24, 2022. Board typically reduces \$1,000 LFFs for 24-hour notices to \$250 for a first-time violation.        RECOMMENDED ACTION: Reduce to \$250</p>	<p>Leppik</p>	<p>Reduce to \$250</p>	<p>Unanimously passed</p>
<p>7. NAPAC-MN (41276)</p>	<p>\$225 LFF</p>	<p>September 2022</p>	<p>Report due September 27, 2022, and filed October 10, 2022. This was a no-change statement. Report was late due to not understanding the due dates. Was recently provided a list of the due dates to prevent further issues in the future. Pre-general report was filed on time and listed an ending cash balance of \$821. Committee has had very minimal financial activity.        RECOMMENDED ACTION: No recommendation</p>	<p>Asp</p>	<p>Waive</p>	<p>Unanimously passed</p>

Felipe Illescas, Government Affairs Director for the Minnesota Nursery and Landscape Association, appeared before the Board regarding the waiver request of the MN Green Industry PAC. Mr. Illescas stated that there was a transition in staff so for two-to-three months there was no person handling the committee's reporting. Mr. Illescas said that he started in late August and there was also a transition in the committee's chair and treasurer.

8. MN Green Industry PAC (70053)	\$100 LFF	September 2022	Report due September 27, 2022, and filed October 3, 2022. Report was late due to internal staff transitions. Ending cash balance of \$5,219 as of October 24, 2022. RECOMMENDED ACTION: No recommendation	Soule	Waive	Unanimously passed
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**C. Informational Items**

**1. Payment of late filing fee for September 2022 report of receipts and expenditures**

Minnesota Conservative PAC, \$25  
 Minnesota Seasonal Recreational Property Owners PAC, \$100

**2. Payment of late filing fee for 2022 pre-primary report of receipts and expenditures**

Livingston (Nancy) for Senate, \$150  
 5<sup>th</sup> Congressional District IAP, \$50

**3. Payment of late filing fee for 2022 pre-primary notice of large contribution**

Dr. Scott Jensen for Governor, \$2,000 (\$1,000 x2)

**4. Payment of late filing fee for June 2022 report of receipts and expenditures**

IAFF-Local #1935 PAC, \$25

**5. Payment of late filing fee for lobbyist disbursement report due 6/15/2022**

Kayla Christensen, \$50  
 Hue Nguyen, \$50  
 Grace Keliher, \$25

**6. Payment of late filing fee for lobbyist principal report due 3/15/2022**

MN Energy Forum Action, \$150

**7. Payment of late filing fee for original EIS**

Ethan Cha, \$75



**8. Payment of civil penalty for disclaimer violation**

Lisa Hanson for Senate, \$200

**9. Forwarded anonymous contributions**

Greg Boe for State House, \$50  
1st Congressional District RPM, \$25  
Keith Ellison for Attorney General, \$130

**PRIMA FACIE DETERMINATIONS**

Mr. Sigurdson presented members with a memorandum regarding these matters that is attached to and made a part of these minutes.

**LEGAL COUNSEL'S REPORT**

Prior to the meeting Mr. Hartshorn provided members with a legal report that is attached to and made a part of these minutes. Mr. Kaisershot presented the report to the Board and stated that Mr. Hartshorn anticipates filing a motion for default judgment in the Ashley Martinez-Perez matter within the next couple months.

**EXECUTIVE SESSION**

Chair Rashid recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair reported the following matters into regular session:

Findings:

- In the Matter of the Complaint of John Persell regarding the Eichorn (Justin) for MN Senate Campaign Committee
- In the Matter of the Complaint of John Persell regarding the Matt Bliss for House committee

Dismissal:

- In the Matter of the Complaint of Marc Asch regarding The Republican Party of Minnesota
- In the Matter of the Complaint of George Selvestra regarding the Committee to Elect Josh Heintzeman
- In the Matter of the Complaint of Wayne Severud regarding the Vote for Loonan (Robert) committee and Loonan and Loonan Consulting

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

Respectfully submitted,



Jeff Sigurdson  
Executive Director

Attachments:

Executive Director's report

Draft Annual Report of Board Operations for Fiscal Year 2022

Memorandum regarding reconciliation of contributions between registered committees

Memorandum regarding guidelines for civil penalties in conciliation matters

Memorandum regarding prima facie determinations finding no violation

Determination in Complaint of Jon Erik Kingstad regarding Jim Schultz For Minnesota Attorney General, *et al.*

Determination in Complaint of Minnesota DFL regarding Dr. Scott Jensen for Governor and Heal Minnesota

Determination in Complaint of Minnesota DFL regarding the Kim Crockett for Secretary of State Committee and the American Principles Project PAC-Minnesota Fund

Determination in Complaint of Chantal Oechsle regarding the Bernie (Perryman) for House Committee  
Legal report



# MINNESOTA CAMPAIGN FINANCE BOARD

**Date:** November 7, 2022

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Executive Director's Report

**Campaign Finance Reports:** The pre-general report of receipts and expenditures for all state candidates on the general election ballot, all political committees, all political party units and all political funds that had activity during the reporting period, was due on October 31, 2022. The Board currently has not received 5 of the expected 391 reports from candidate committees (98.7% filed) or 90 of the expected 849 reports from all other types of committees and funds (89.3% filed).

The 24-hour reporting period for large contributions received after the close of the pre-general report period opened on October 25 and will close on November 7, 2022. As of the date of this memo the Board has received 345 24-hour notices, which are immediately available for public review at <https://cfb.mn.gov/reports-and-data/viewers/campaign-finance/large-contribution-notices/>.

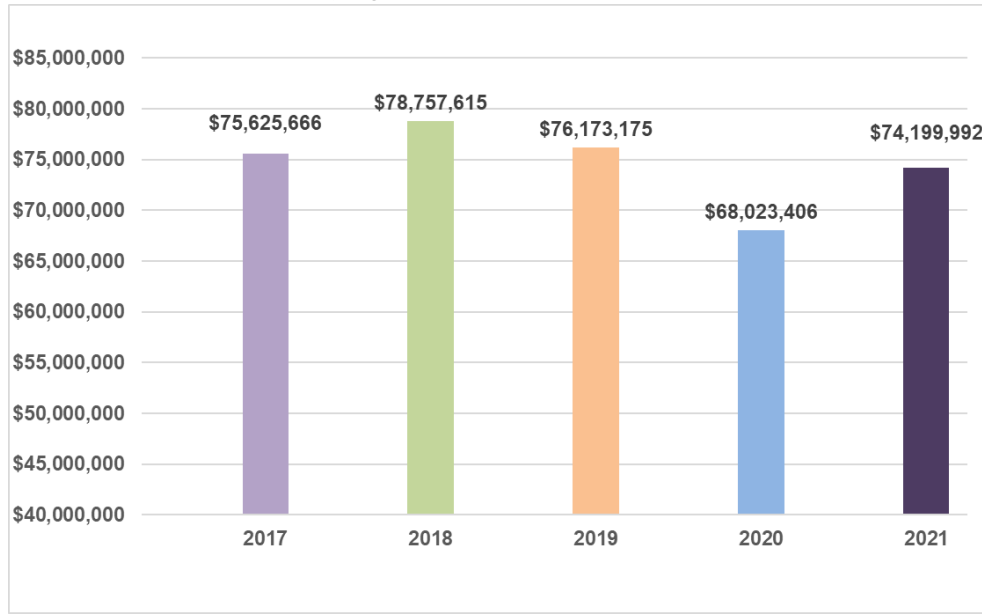
## **Annual Report of Board Operations for Fiscal Year 2022**

Staff has completed for Board approval a draft report of the Board's operations during fiscal year 2022 (July 1, 2021 – June 30, 2022). This report is required by Minnesota Statutes section 10A.02, subdivision 8. The report is provided to the governor, legislative leadership, the legislative library, and is made available to the public through the Board's website. The report is required to contain the fiscal operations of the Board, including the names, and duties of Board members and staff. The report also reviews the major programs administered by the Board. A copy of the report is attached. Because the report is issued to the legislature, a Board motion to approve the draft and release the report is required.

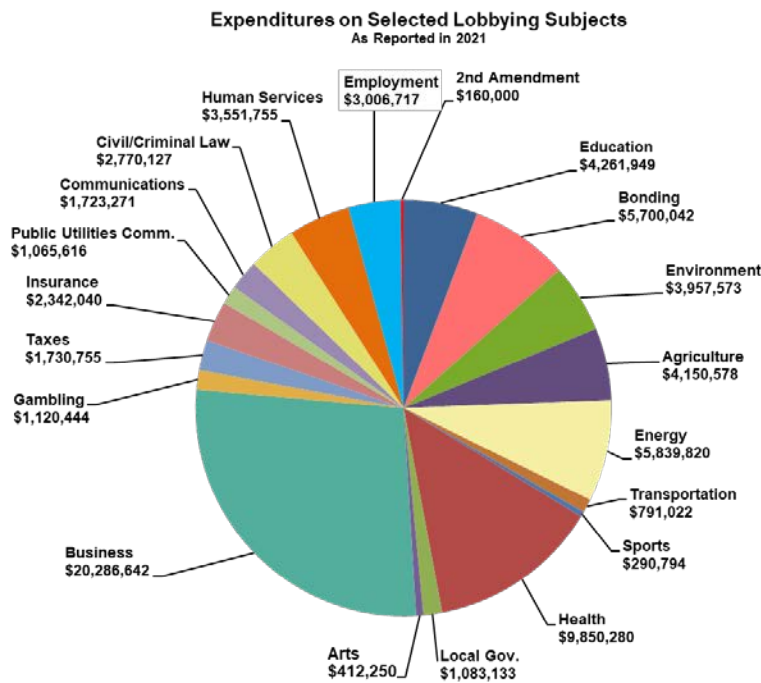
**Lobbyist Disbursement Summary:** Each year Board staff produces a summary on disbursements made to influence official actions in Minnesota during the prior calendar year. The summary provides 165 pages of detailed information on the lobbyists registered for each principal along with total lobbying disbursements reported during the year. The summary also provides an overview of total lobbying disbursements reported for various categories, and identifies the associations that made the largest expenditures by lobbying area in 2021. The summary is available online at: [https://cfb.mn.gov/pdf/publications/reports/lobbyist\\_disbursement\\_summaries/lbsm\\_2021.pdf](https://cfb.mn.gov/pdf/publications/reports/lobbyist_disbursement_summaries/lbsm_2021.pdf).

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

**Lobbyist Principal Disbursements 2017 – 2021** The total amount spent on influencing all types of official actions increased by 8.3% between 2020 and 2021. Of the \$74,199,992 dollars spent on lobbying, \$5,194,947 was spent lobbying the MN Public Utilities Commission.



**Expenditures by Lobbying Subject** Once a year the designated lobbyist for each principal reports the subjects on which the lobbyists represented the association. Linking that information to the disbursements reported by the principal’s lobbyists provides a fairly accurate picture of the amount spent on lobbying subjects during 2021. Board staff makes some assumptions when categorizing the subjects listed on the lobbyist reports into the twenty broad subject areas used in the graph.



**Attachments**

Annual Report of Board Operations – Fiscal Year 2022

# Report of the Minnesota Campaign Finance and Public Disclosure Board



**Covering Fiscal Year 2022**

July 1, 2021- June 30, 2022

Issued: November 2022

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# MINNESOTA CAMPAIGN FINANCE BOARD

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**DATE:** November 14, 2022

**TO:** The Honorable Tim Walz, Governor  
The Honorable, Jeremy Miller, Senate Majority Leader  
The Honorable Melissa Hortman, Speaker of the House  
The Honorable Melisa López Franzen, Senate Minority Leader  
The Honorable Kurt Daudt, House Minority Leader  
The Honorable Mary Kiffmeyer, Chair State Government Finance and Policy and Elections  
The Honorable Michael Nelson, Chair State Government Finance and Elections

**FROM:** Faris Rashid, Chair  
Campaign Finance and Public Disclosure Board

**SUBJECT:** Report of Board activities during fiscal year 2022.

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 2022.

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

Included in this report is information about 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. There are three major programs governed by Chapter 10A: 1) the regulation of campaign finance contributions and expenditures for state-level candidates, party units, and political committees; 2) the registration and reporting of lobbyists and the principals the lobbyists represent; and 3) the collection and disclosure of economic interest statements required of public officials. A brief overview of each program is provided here, with reference to the page in the annual report where detailed information is located. Additionally, the annual report provides information on Board members who served during the fiscal year beginning on page 4, and on the Board's staff, budget, and other financial activity during the fiscal year starting on page 26.

Fiscal year 2022 includes the first six months of calendar year 2022, which is a state election year. To help candidates and treasurers comply with the reporting and compliance issues in Chapters 10A and 211B Board staff conducted seven virtual training sessions through the end of June, with many more scheduled in fiscal year 2023. Remote training was initially in response to the COVID pandemic, but it has proved to be very popular with candidates and treasurers who appreciate being able to attend training without travel to a specific location, and who can use recordings of the training sessions at their convenience. During Additional information regarding the training the Board conducted is found on page 9.

Staff worked remotely from home during the COVID-19 pandemic, but during the summer of 2022 staff were again scheduled to work the majority of time in the Board's offices. However, staff is still scheduled to work some days from home if it is compatible with the operational needs of the office.

On the filing date for the 2021 year-end report of campaign receipts and expenditures there were 698 state-level candidates, 315 political party units, and 410 political committees and funds registered with the Board. Collectively, the year-end reports disclosed \$45,568,500 in receipts and \$25,587,297 in expenditures during calendar year 2021. Additional information regarding the campaign finance program begins on page 12.

About 1,460 lobbyists were registered with the Board at any one time throughout the fiscal year. The lobbyists represented 1,527 principals. The principals reported total lobbying expenditures of \$74,199,992 in calendar year 2021. Additional information on the lobbyist program is found on page 19.

The economic interest disclosure program requires public officials in approximately 3,100 positions to file economic interest statements with the Board. Depending on the position, these officials file their statements when they initially file their affidavits of candidacy for state-level office or when they take office. Additionally, public officials must review and update their statements in January of each year. Details on the economic interest disclosure program start on page 22.

During the fiscal year, the Board held ten scheduled meetings and one special meeting. All regular sessions of Board meetings may be watched and participated in via WebEx. The Board returned to meeting in person in May of 2022. At these meetings, the Board reviewed and approved twenty five conciliation agreements that resolved violations of Chapter 10A, and dismissed issued three probable cause determinations to dismiss complaints filed with the Board.

## Introduction to the Board

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.

In 2013 the Board was given authority over 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 legally may be used, and (3) 211B.15, which governs corporate contributions. This authority is limited to those individuals and associations already subject to the Board's jurisdiction under Chapter 10A.

## 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 following:

- 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; and
- 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

Goals and objectives of the Board include the following:

- Create better compliance with the Campaign Finance and Public Disclosure Act by providing easy access to information and training.
- 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 positions during the fiscal year. Additional information about Board staff is found beginning on page 26.

## 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.

## Board Members

July 1, 2021, through June 30, 2022



### **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. Governor Dayton re-appointed Ms. Leppik in January 2016 for a term ending in January of 2020, but because no appointment was made to replace her, Ms. Leppik continued to serve until July 1, of 2020. In August of 2020, Walz reappointed Ms. Leppik to a term ending in January of 2024. Ms. Leppik fills a Board position requiring a former Republican legislator. Ms. 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, Ms. Leppik is an active volunteer for numerous nonprofit organizations.



### **Carol Flynn**

Carol Flynn was appointed to the Board in February of 2015 by Governor Dayton for a term ending in January of 2019. In August of 2020, Governor Walz reappointed Ms. Flynn to a term ending in January of 2023. She fills a Board position requiring a former DFL legislator. Ms. Flynn served as a state senator from 1990-2000 where she was Majority Whip and chaired the Judiciary and Transportation Committees. Ms. Flynn worked and studied at the University of Minnesota. She served on the Metropolitan Waste Control Commission and Metropolitan Council where she chaired the Systems Committee. She currently volunteers on several union retiree organizations.



**Daniel N. Rosen, Member July 2021 to January 2022**

Daniel N. Rosen was initially appointed in July of 2014, by Governor Dayton for a term ending in January of 2018. Governor Dayton re-appointed Mr. Rosen in January 2018 for a term ending in January of 2022. He filled 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 the lead Minnesota partner of the Kluger Kaplan law firm, where he practices in the field of business and real estate litigation. Prior to law school Mr. Rosen was as an officer in the United States Navy and served in Operations Desert Shield and Desert Storm.



**Faris Rashid, Board Chair January 2022 to June 2022**

Faris Rashid was appointed to the Board in August of 2020 by Governor Walz. Mr. Rashid was appointed again in July of 2021 for a term ending in January of 2023. 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. Mr. Rashid is a trial lawyer and partner at Greene Espel PLLP with a focus on technology, intellectual property, and trade-secrets disputes. He graduated from the University of Wisconsin Law School.



**Stephen Swanson Board Chair, July 2021 to January 2022**

Stephen D. Swanson was appointed to the Board in July of 2017 by Governor Dayton for a term ending in January of 2020, but because no appointment was made to replace him, Mr. Swanson continued to serve until July 1, of 2020. In August of 2020, and again in July of 2021, Governor Walz reappointed Mr. Swanson to a term ending in January of 2024. He occupies an unrestricted Board position and supports the DFL party. Mr. Swanson is a graduate of the University of Cincinnati College of Law, and holds a Master of Laws degree from New York University. Following a career as an attorney with Mid-Minnesota Legal Assistance, Inc. Mr. Swanson served as a Hennepin County District Court Judge from July of 1989 to February of 2007 and as a Senior Judge from January of 2009 to April of 2014. He served as a temporary administrative law judge with the Minnesota Office of Administrative Hearings from May 2014 to May 2017. Mr. Swanson has served as an international judge on the Court of Bosnia and Herzegovina, and worked in USAID-sponsored rule of law projects in Afghanistan, Kosovo, and Lebanon. Mr. Swanson was employed as a half-time housing attorney with the Volunteer Lawyers Network. Mr. Swanson is presently an arbitrator for the Minnesota Bureau of Mediation Services on the Peace Officer Grievance Arbitration Roster.



**George Soule**

George Soule was appointed to the Board in March of 2021 by Governor Walz for a term ending in January of 2025. He occupies an unrestricted Board position and does not have a political party affiliation. Mr. Soule is a trial lawyer and founding partner of Soule & Stull LLC in Minneapolis. He also serves as a tribal court of appeals judge for five Minnesota tribes, including the White Earth Nation, where he is a member. Mr. Soule is a former Chair of the Minnesota Commission on Judicial Selection and serves on the Minnesota State Colleges and Universities Board of Trustees. He graduated from Minnesota State University Moorhead and Harvard Law School.



### **David Asp**

David Asp was appointed to the Board in February of 2022 by Governor Walz for a term ending in January of 2026. 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. Mr. Asp supports the Republican party.

Mr. Asp is a partner at Lockridge Grindal Nauen PLLP where his practice focuses on litigation, particularly litigation involving health care and administrative law. Mr. Asp has been an active volunteer on the board of several community and non-profit organizations, and has volunteered with political campaigns, party units, and political committees. He graduated from Augsburg College and the University of Minnesota Law School.

## **Summary of Board Activities**

### **Meetings**

The Board holds regular monthly meetings, which are open to the public, and executive session meetings, which are closed to the public.

The Campaign Finance and Public Disclosure Board held ten scheduled and one special meetings during the fiscal year. Minutes of Board meetings are published on the Board’s website.

## Advisory Opinion Procedure

The Board is authorized to issue advisory opinions on the requirements of the Campaign Finance and Public Disclosure Act, Minnesota Statutes Chapter 10A; Minnesota Statutes sections 211B.04, 211B.12, and 211B.15 if the requestor is under the jurisdiction of Chapter 10A. 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.

Two advisory opinions, Advisory Opinions 454 and 455 were issued in fiscal year 2022. Summaries of the opinions are provided in the review of the campaign finance program.



## Education and Training

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:

- 7 remote compliance training sessions attended by 315 candidates and treasurers of principal campaign committees, political party units, and political committees and funds;

The seven remote compliance trainings were scheduled for both day and evening start times to accommodate different work schedules for treasurers and candidates. Also, staff recorded the remote compliance training class and remote computer lab training class so that clients could watch the training classes at their convenience. The recorded training classes and the PowerPoint materials and handouts are on the website for clients to access.

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 videos on specific topics related to using Campaign Finance Reporter. The videos are available on the Board's website. Additionally Board staff participated in panels and spoke to interested groups of the public on the requirements of Chapter 10A.

## Use of Technology

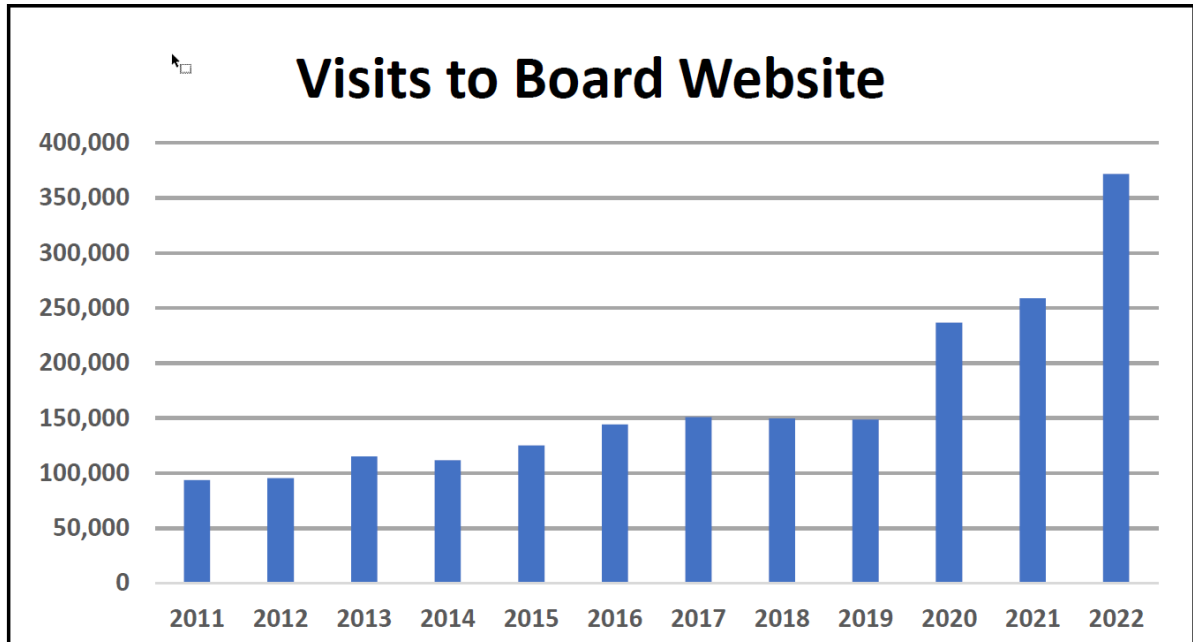
The Board has long recognized the value of receiving disclosure reports in electronic format. Electronic reports may be moved directly into Board databases where the records are analyzed for compliance issues and then exported to the Board's website for faster disclosure to the public. Electronic filing 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 economic interest statements. Use of these web based applications is optional, clients may still file a paper report, but all three applications have participation rates of over 85%, which indicates that clients also prefer electronic filing.

The Board website offers the following:

- Board meeting notices and minutes;
- Board enforcement actions, including findings and conciliation agreements;
- Advisory opinions;
- Lists of lobbyists and principals, 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 statements 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 Reports of Lobbyist Principal Expenditures; and
- Training videos on campaign finance compliance and the use of Campaign Finance Reporter.

## Board Website - [cfb.mn.gov](http://cfb.mn.gov)



## 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 Overview

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

During calendar year 2022, an election year, these committees and funds filed periodic reports disclosing receipts and expenditures. Information on the number of reports filed is found on page 14.

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 18.

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 public subsidy payments made during fiscal year 2022 is found on page 17.

## Legislative Action and Rulemaking

The Board focused on legislative proposals for the lobbying program during the 2022 legislative session, and did not pursue legislative recommendations or administrative rule making for the campaign finance program.

## Advisory Opinions Issued Related to Campaign Finance Program

The Board issued two advisory opinions regarding the campaign finance program during fiscal year 2022.

- **Advisory Opinion 454** provided that a political party unit may lease meeting space for use by elected members of the party and other individuals who pay a membership fee for use of the facility. Allowing elected members to use the space for less than the cost of leasing the space will result in in-kind contributions that must be reported to the Board. The payment of a membership fee by a non-elected individual constitutes a contribution to the party unit that must also be reported to the Board. If a lobbyist pays a membership fee to the party unit prior to the start of the legislative session, use of the membership during session does not result in a violation of the prohibition on certain contributions during the legislative session.
- **Advisory Opinion 455** provided that a nonprofit corporation may make political contributions in Minnesota as an unregistered association if the nonprofit corporation is organized and operated consistent with requirements provided in Minnesota Statutes section 211B.15, subdivision 15. If the nonprofit corporation makes contributions in excess of \$200 to more than three committees registered with the Board within a calendar year, the nonprofit corporation must register a political committee or fund with the Board. An unregistered association may satisfy the disclosure requirement for a contribution from an unregistered association by providing a written statement to the recipient of each contribution containing the URL of the FEC webpage where the association's federal campaign finance reports may be viewed.

## Campaign Finance Disclosure Reports Filed

Below are the number of reports of receipts and expenditures filed by candidates, political party units, and political committees and political funds during the first six months of 2022, and the 2021 year-end report filed in January of 2022.

	<b>Paper</b>	<b>Electronic</b>	<b>Total</b>
<b>Candidate Committees</b>	<b>125</b>	<b>562</b>	<b>687</b>
<b>Political Party Units</b>	<b>95</b>	<b>237</b>	<b>332</b>
<b>Political Committees or Funds</b>	<b>234</b>	<b>969</b>	<b>1,203</b>

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 for 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. Thirty three committees filed electronically using the

## 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.

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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. 31 committees filed electronically using the XML standard. The table below shows the number of committees that file electronic disclosure reports by year.

Reporting Year	Candidate Campaign Committees	Political Committees, Political Funds, and Political Party Units
2020	575	556
2019	516	557
2018	576	582
2017	499	525
2016	557	548
2015	442	524
2014	516	543
2013	479	526
2012	581	594
2011	327	237
2010	376	174

## 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 2022 state general election were made in fiscal year 2023, and will be detailed in the next annual report of the Board. A report of the public subsidy payments made to each qualified candidate during the 2022 state election is available on the Board's website.

## Political Contribution Refund Program

State candidates who sign the public subsidy agreement and political parties are allowed to give political contribution refund receipts to individual contributors. In calendar year 2021 the Department of Revenue issued \$619,000 in refunds based on contributions to candidates, and another \$1,578,000 in refunds based on contributions to political parties.

The state central 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 2022 the Board made \$64,237 in payments to political parties. By party the payments were as follows:



## Political Party Payments

<b>Party</b>	<b>Payment</b>
<b>Democratic Farmer Labor</b>	<b>\$43,510</b>
<b>Republican</b>	<b>\$15,630</b>
<b>Legal Marijuana Now</b>	<b>\$1,281</b>
<b>Grassroots-Legalize Cannabis</b>	<b>\$720</b>
<b>Libertarian</b>	<b>\$811</b>
<b>Independence Alliance</b>	<b>\$2,241</b>

## 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. If warranted, the Board may also issue an order stating that no violation occurred.

During fiscal year 2022 the Board entered into twenty-five conciliation agreements to resolve violations of Chapter 10A or Chapter 211B. In fiscal year 2022 the Board also dismissed three complaints at the probable cause determination stage and dismissed two complaints at the prima facie determination stage .

To ensure compliance with disclosure deadlines Chapter 10A provides for late fees applied at the rate of \$50 a day for reports of receipts and expenditures due prior to primary and general elections, and \$25 a day for other reports. Reports that are filed more than 7 days after the Board has sent notice by certified mail of the failure to file a report also incur a \$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 30.

## Lobbying 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, state 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 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 and Rulemaking

In fiscal year 2022, the Board submitted legislative proposals that would have changed the focus of lobbyist disclosure from reporting the costs associated with lobbying to reporting the subjects of interest that were lobbied on for the principal. The proposal also would have required lobbyists to identify the administrative agencies and metropolitan governmental units that were lobbied. In addition, the proposal would have required the disclosure of any advertising over \$2,000 that urged the public to contact public or local officials to take official actions. The legislative proposal was introduced as House File 2173. A hearing was held on the proposal during the 2021 session, but the bill was not heard in committee during the 2022 session. The Board did not pursue any rulemaking in the lobbying program in fiscal year 2022.

## Advisory Opinions Issued Related to Lobbyist Program

In fiscal year 2022 the Board did not issue any advisory opinions related to the lobbying program.

## 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 website.

Reporting year	Reports filed	Electronically filed
2021	4,319	94%
2020	4,292	94%
2019	4,338	93%
2018	4,201	97%
2017	4,231	95%
2016	4,174	98%
2015	4,076	97%
2014	4,041	96%
2013	3,998	97%
2012	3,823	93%
2011	3,959	94%
2010	3,950	98%

## Principal Reporting

Chapter 10A requires principals to file an annual report disclosing expenditures made in Minnesota to influence legislative actions, administrative actions, 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.

	<b>All Other Lobbying in Minnesota</b>	<b>MN Public Utilities Commission</b>	<b>Total</b>
<b>2021</b>	\$69,005,045	\$5,194,947	\$74,199,992
<b>2020</b>	\$62,974,403	\$5,049,004	\$68,023,406
<b>2019</b>	\$68,408,333	\$7,809,960	\$76,218,293
<b>2018</b>	\$63,727,954	\$15,029,661	\$78,757,615
<b>2017</b>	\$66,029,622	\$9,641,044	\$75,670,666
<b>2016</b>	\$62,140,012	\$6,222,560	\$68,362,572
<b>2015</b>	\$63,947,699	\$5,177,020	\$69,124,719
<b>2014</b>	\$64,517,472	\$5,889,000	\$70,406,472
<b>2013</b>	\$69,185,283	\$5,568,210	\$74,753,493
<b>2012</b>	\$59,060,155	\$2,749,590	\$61,809,745
<b>2011</b>	\$65,241,174		\$65,241,174
<b>2010</b>	\$59,172,799		\$59,172,799

## Lobbyist Program Enforcement Actions

In fiscal year 2022, the Board did not conduct any investigations or receive any complaints regarding possible violations concerning the lobbyist program. However, during fiscal year 2022 the Board entered into two conciliation agreements with a lobbyist to resolve a campaign finance violation.

## Economic Interest Statement 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 3,190 public officials who filed with the Board in fiscal year 2022. Local officials use forms developed by the Board, but file with the local governmental unit.

## Filing of Statements

Original statements of economic interest must be filed at the time of appointment or, for candidates, when the candidate files for office. All incumbent office holders 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.

During fiscal year 2022, there were 356 state offices, boards, agencies, or commissions with elected or appointed public officials. The Board processed 3,437 statements of economic interest during the fiscal year, 92% of which were submitted using the Board's electronic filing system, and 8% of which were submitted on paper forms.

During the annual recertification period in January of 2022, staff processed 2,991 statements. Of those statements, 93% were filed electronically.

Separate from the annual recertification filing, candidates for state office are required to file an economic interest statement when they file to be on the ballot. In 2022, 450 statements were filed by candidates.

## Legislative Action and Rulemaking

The Board did not have legislative recommendations or undertake administrative rulemaking for the economic interest program in fiscal year 2022.

## Advisory Opinions Issued Related to the Economic Interest Program

No advisory opinions were issued in the economic interest program in fiscal year 2022.

## 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.

## 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 Minnesota Statutes section 356A.06, subdivision 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 570 pension plans are required to file with the Board under this law. This number has gone down in recent years as covered local pension plans dissolve to join the Statewide Volunteer Firefighter Retirement Plan. The Board does not have jurisdiction over enforcement of this certification requirement.

## Public Employees Retirement Association 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 Minnesota Statutes, section 353.03, subdivision 1. Under this statute, the Board prescribes and furnishes to trustee candidates the reporting form and instructions for completing the form.



## State Board of Investment

Minnesota Statutes section 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 rulemaking authority in a hearing conducted under Minnesota Statutes Chapter 14, and in the cases of rate setting, power plant and power line siting, and granting of certificates of need under Minnesota Statutes section 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.

## Staff Duties

### Executive Director

The executive director facilitates achievement of the Board's goals and objectives, sets the agenda and prepares materials for Board and committee meetings, and directs all agency and staff operations. The executive director also drafts advisory opinions for Board consideration, serves as the Board's representative to the Legislature and the Executive Branch. The executive director is responsible to insure that the information technology resources of the agency are best used to support the Board's missions and goals. The executive director is responsible for the calculation of public subsidy payments made to candidates and political party units. Lastly, the executive director administers the preparation of the biennial budget.

### Assistant Executive Director

The assistant executive director serves as advisor to the executive director and assists in management of the operations for the agency. The assistant executive director conducts complex investigations and prepares drafts for Board consideration, reconciles and reports on the Board's financial systems, and supervises the agency's compliance programs. The assistant executive director prepares and conducts training classes for clients on campaign finance reporting requirements.

### Legal Analyst—Management Analyst

Two staff members hold this position. The legal analysts – management analysts perform legal analysis, make recommendations, and assist in agency administrative rule-making, the conduct of Board investigations, and drafting findings and orders for Board consideration. These positions also serve as internal management consultants providing support and analysis to the executive director and assistant executive director.

### Compliance Officer

The compliance officer provides for distribution, collection, data entry, and filing of campaign finance registrations and reports required by Chapter 10A. The compliance officer reviews the reconciliation of reported contributions, performs compliance checks on campaign finance reports filed with the Board, assists in the conduct of Board audits, and monitors cases for Revenue Recapture

### **Lobbying Program Administrator**

The compliance officer also provides compliance advice and guidance to Board staff and clients.

The programs administrator provides for distribution, collection, data entry, and filing of lobbyist disclosure required by Chapter 10A. The programs administrator collects, stores, and retrieves data for the preparation and analysis of summaries of documents filed with the Board. The programs administrator also provides database advice and guidance to Board staff and clients.

### **Information Technology Specialist III Database Management**

This information technology specialist develops, maintains, and manages complex database applications to support administration of all Board programs and activities. The position provides technical service, LAN administration, and training to Board staff. The position also develops, administers, and provides technical support for the Board's website and provides client training and support in the use of the Campaign Finance Reporter software.

### **Information Technology Specialist III Application Development**

This information technology specialist ensures that the technology resources of the Board support applicable business rules and statutory obligations. The position develops online applications for use by clients in reporting to the Board. The position also develops and administers applications for use by staff and in response to management requests. The position also supports multiple complex relational databases.

## Staff Salaries FY 2022

Position	Staff Member	FY 2022
Executive Director	Jeffrey Sigurdson	\$128,010
Assistant Director	Megan Engelhardt	\$108,832
Legal - Management Analyst	Jodi Pope (retired in March)	\$62,005
Legal—Management Analyst	Will Hager (started in June)	\$3,009
Legal - Management Analyst	Andrew Olson	\$73,153
Investigator	Melissa Stevens	\$63,809
Information Technology Specialist 3	Jon Peterson	\$101,126
Information Technology Specialist 3	Gary Bauer	\$92,082
Management Analyst 1	Erika Ross	\$53,104
<b>Total Salaries</b>		<b>\$685,134</b>

## Board Financial Information FY 2022

The Campaign Finance and Public Disclosure Board is funded by a direct appropriation from the Minnesota Legislature. The Board's operational appropriation for fiscal 2022 was \$1,145,000. Funds not expended in the first year of a biennium roll forward into the next fiscal year and funds not expended in the second year of a biennium are returned to the state general fund. The majority of the amount available for carryforward to fiscal year 2023 is a result of salary savings.

Income Summary	FY 2022
Appropriation	\$1,145,000
Expenditure Summary	
Operating budget expenditures	(\$1,023,777)
Carry forward to FY 2023	\$121,233

## Board Operating Budget—FY 2022

Salary and Benefits	FY 2022
Full time staff (salary and fringe)	\$924,566
Retirement Benefit Payout	\$13,007
Per diem for Board Members	\$3,400
Workers compensation insurance	\$478
<b>Salary and Benefits Sub Total of Expenditures</b>	<b>\$941,451</b>

Operating Expenses	FY 2022
Office rent	\$35,837
Copier lease	\$6,767
Postage	\$11,710
Printing	\$1,658
Staff development	\$445
Supplies	\$3,508
MNIT services	\$13,855
Court reporter, subpoena, and court filing costs	\$935
Equipment	\$934
Computer systems development - software	\$5,007
Travel	\$350
Miscellaneous Costs	\$1,320
<b>Operating Expense Sub Total of Expenditures</b>	<b>\$82,326</b>

<b>Board Operating Total Expenditures</b>	<b>\$1,023,777</b>
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## Penalties Paid for Late Filing Fees 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 2022.

<b>Late Filing Fees</b>	<b>FY 2022 Dollars Paid</b>	<b>Number of Violations</b>
Candidate Campaign Committees	\$3,960	22
24-Hour Notice	\$6,700	15
Political Committees and Funds	\$3,325	20
Political Party Units	\$4,225	14
Economic Interest Statements	\$390	8
Lobbyist Disbursement Reports	\$5,083	44
Lobbyist Principal Annual Reports	\$2,675	11
<b>Total Late Fees</b>	<b>\$26,359</b>	<b>134</b>
<b>Civil Penalties</b>	<b>FY 2022 Dollars Paid</b>	<b>Number of Violations</b>
Contribution from Unregistered Association		
Corporate Contribution	\$750	2
Contribution Limits Violations		
Candidates Accepted in Excess of Limit	\$1,081	7
Special Source Aggregate Limit	\$7,335	6
Candidate Failure to Keep Records	\$475	1
Political Committee Contribution in Excess of Limit	\$150	2
Prohibited Contributions During Session		
Lobbyist	\$125	1
Candidate	\$500	2
Failure to File Disclosure Report		
Candidate Committees	\$3,040	6
Political Committees and Funds		
Lobbyists	\$1,160	1
Lobbyist Principals	\$2,000	2
Conversion of Committee Funds	\$1,302	6
Disclaimer	\$200	2
Party Unit Failure to Keep Records	\$3,000	1
<b>Total Civil Penalties</b>	<b>\$19,119</b>	<b>37</b>
<b>Total Late Fees and Civil Penalties Deposited in State General Fund</b>	<b>\$45,478</b>	<b>171</b>



# MINNESOTA CAMPAIGN FINANCE BOARD

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**DATE:** November 7, 2022

**TO:** Board Members

**FROM:** Jeff Sigurdson  
Executive Director

**TELEPHONE:** 651-539-1189

**SUBJECT:** **Yearly Update on Reconciliation of Contributions between Registered Committees**

## **Background**

In the fall of 2013, the Star Tribune published an article describing problems found in the database of contributions to state candidates, political party units, and political committees and funds provided to the paper by the Campaign Finance and Public Disclosure Board. In particular the Star Tribune found that it could not reconcile over \$20 million dollars in contributions reported between registered committees during the years 2000 to 2012. Staff confirmed that the problems identified in the article existed, and during the remainder of 2013, all of 2014, and the first quarter of 2015, worked to reduce the number of contributions between registered entities that did not reconcile.

At the August 2015 Board meeting staff reported to the Board on the progress made in reconciling contributions, and reported on nine steps implemented by the executive director to minimize unreconciled contributions in future reporting years. The Board directed staff to stop the active reconciliation of contributions made prior to 2014, and to report annually to the Board regarding the reconciliation of contributions for the prior reporting year. This memo provides the status of the reconciliation of contributions between registered entities reported in 2021.

## **Reconciliation of 2021**

The 2021 year-end reports of receipts and expenditures were due on January 31, 2022. The reports were processed using procedures designed to limit the number of unreconciled contributions caused by data entry errors. These procedures include double checking the data entry of paper reports by staff and requiring treasurers to submit complete amended reports if warranted.

In Table 1 the 2021 reconciliation numbers are highlighted in grey. The years 2010 – 2020 are provided for comparison.

**Table 1**

<b>Year</b>	<b>Total Itemized Transfers Between Registered Committees</b>	<b>Amount Initially Not Reconciled</b>	<b>Percentage Initially Reconciled</b>	<b>Current Amount Not Reconciled</b>	<b>Percentage Currently Reconciled</b>
2010	\$25,459,972	\$4,791,084	81.18%	\$31,968	99.87%
2011	\$4,087,836	\$500,960	87.75%	\$5,870	99.86%
2012	\$32,772,360	\$4,326,600	86.80%	\$19,614	99.94%
2013	\$4,506,703	\$417,657	90.73%	\$8,167	99.82%
2014	\$24,647,813	\$1,955,927	92.06%	\$30,561	99.88%
2015	\$5,125,778	\$530,272	89.65%	\$1,430	99.97%
2016	\$32,920,683	\$5,621,789	83.02%	\$20,858	99.94%
2017	\$5,548,494	\$180,393	96.69%	\$7,175	99.87%
2018	\$43,457,655	\$2,514,075	94.21%	\$10,500	99.98%
2019	\$8,015,000	\$363,378	95.47%	\$5,165	99.93%
2020	\$40,444,505	\$2,533,949	93.73%	\$3,065	99.98%
2021	\$7,792,135	\$645,533	91.71%	\$17,750	99.77%
<b>Totals</b>	<b>\$234,778,934</b>	<b>\$23,736,730</b>	<b>89.88%</b>	<b>\$162,123</b>	<b>99.93%</b>

The reconciliation process takes considerable staff time to complete. Staff initially reached out informally through email to treasurers with a reconciliation issue and asked them to review their records on specific contributions. A significant number of problems were resolved through emails and subsequent amendments. Formal letters requiring a response were mailed to 46 candidate committees and 232 political committees and party units in April and June of this year. In almost all cases, amendments were secured from the donor, the recipient, or both to resolve the discrepancies. Staff is still working with five committees to resolve contributions that do not reconcile.





# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** November 7, 2022

**To:** Board Members

**From:** Jeff Sigurdson  
Executive Director

**Subject:** **Guidelines for civil penalties in conciliation matters**

Most conciliation agreements are to resolve excess or improper contribution violations. The Board has discretion to impose a civil penalty of up to four times the amount of the violation<sup>1</sup>. Additionally, when a violation occurs, the committee must always return the excess and/or improper contribution to the donor, or to the state if the donor committee has terminated.

Although the Board considers each case on its own merits, many of the violations considered by the Board are very similar. Consequently, the penalties imposed for those violations also are very similar. Starting in 2014, the Board typically has imposed a civil penalty in the amount of the excess and/or improper contribution. The Board has required immediate payment of 25% of the imposed civil penalty and has stayed payment of the remaining 75% of the penalty until the end of the next election segment on the condition that the committee have no similar violations during that time. If the penalty is greater than \$100 but 25% of the penalty is less than \$100, the Board has required immediate payment of \$100, with the remainder stayed. If the committee has another similar violation, then the outstanding civil penalty is due immediately. If the committee has no other similar violations by the end of the next election cycle segment, the outstanding civil penalty is waived. In situations where the amount of the excess and/or improper contribution was \$100 or less, no part of the civil penalty is stayed.

Member Swanson has provided a proposal for Board consideration that would change the presumption used to draft the penalty for conciliation agreements. Under the proposal, no portion of the penalty is stayed unless specific circumstances make staying a portion of the penalty clearly warranted. Member Swanson's proposal is:

In preparing a conciliation agreement for the Board's consideration, staff may recommend that the other party to the agreement pay a civil penalty. Staff will not recommend that a portion of the penalty be stayed unless the staff determines, under the particular circumstances of the case, that there is a need to provide a monetary

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<sup>1</sup> [Minnesota Statutes section 10A.28.](#)

incentive to ensure the party's compliance in the future. In making that determination, the staff shall consider, among other factors, the following: (1) prior recent history of violations; (2) lack of relevant experience/need for education; (3) failure to take advantage of Board educational programs; and (4) failure to cooperate in an investigation.

Other factors that the Board must consider when applying discretion over the amount of a fine are provided in Minnesota Statutes section 14.045, subdivision 3, which include:

- (1) the willfulness of the violation;
- (2) the gravity of the violation, including damage to humans, animals, and the natural resources of the state;
- (3) the history of past violations;
- (4) the number of violations;
- (5) the economic benefit gained by the person by allowing or committing the violation; and
- (6) other factors that justice may require.

Staff requests that the Board provide guidance on whether to adopt Member Swanson's proposal for the civil penalty provided in conciliation agreements. If the proposal is adopted, staff would suggest that the change is implemented for violations that occur after the 2021-2022 election cycle.



# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** November 7, 2022

**To:** Board members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Prima facie determinations finding no violation

Complaints filed with the Board are subject to a prima facie determination which is made by the Board chair or the Board chair's designee in consultation with staff. If the determination finds that the complaint states a violation of Chapter 10A or the provisions of Chapter 211B under the Board's jurisdiction, the complaint moves forward to a probable cause determination by the full Board.

If the determination finds that the complaint does not state a prima facie violation, the prima facie determination must dismiss the complaint without prejudice. When a complaint is dismissed, the complaint and the prima facie determination become public data. The following four complaints were dismissed by Chair Rashid or Vice Chair Soule and the prima facie determinations are provided here as an informational item to the other Board members. No further action of the Board is required.

## **Complaint regarding Jim Schultz For Minnesota Attorney General and multiple other entities**

On October 11, 2022, the Board received a complaint submitted by Jon Erik Kingstad regarding James Schultz, a candidate for attorney general, and his principal campaign committee, Jim Schultz For Minnesota Attorney General, the Pine Bend PAC, a political committee, Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC, Ron Eibensteiner, the Center of the American Experiment, and the Upper Midwest Law Center.<sup>1</sup> On October 13, 2022, the Board received a supplement to the complaint.<sup>2</sup> The complaint alleged that the Schultz committee received contributions made by or on behalf of multiple entities, consisting either of money, or of free services provided by Mr. Eibensteiner, which the complaint alleged were coordinated expenditures. The complaint also alleged lobbying reporting violations by the Center of the American Experiment, commingling by the Pine Bend PAC, and other violations.

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<sup>1</sup> [cfb.mn.gov/pdf/bdactions/1597\\_Complaint.pdf](https://cfb.mn.gov/pdf/bdactions/1597_Complaint.pdf)

<sup>2</sup> [cfb.mn.gov/pdf/bdactions/1597\\_Supplemental\\_Complaint.pdf](https://cfb.mn.gov/pdf/bdactions/1597_Supplemental_Complaint.pdf)

On October 24, 2022, Chair Rashid concluded that the complaint did not state a prima facie violation of any statute under the Board's jurisdiction. That determination was based in part on the conclusion that most of the allegations were premised upon speculation unsupported by evidence. With respect to some allegations, the determination found that the complaint did not state a violation based on the failure to allege facts that, if true, would constitute a violation. Therefore, the complaint was dismissed. The prima facie determination is attached to this memo.

### **Complaint regarding Dr. Scott Jensen for Governor and Heal Minnesota**

On October 24, 2022, the Board received a complaint submitted by the Minnesota DFL regarding Dr. Scott Jensen for Governor, and Heal Minnesota, an independent expenditure political committee.<sup>3</sup> The complaint alleged that Dr. Jensen, his running-mate Matt Birk, and an agent of their committee, retweeted one or more tweets of Heal Minnesota. The complaint alleged that the retweets destroyed the independence of the expenditures made by Heal Minnesota, causing both the expenditures associated with the tweets in question and subsequent expenditures by that committee to be coordinated expenditures and thereby contributions to the Jensen committee.

On November 4, 2022, Vice Chair Soule concluded that the complaint did not state a prima facie violation of any statute under the Board's jurisdiction. That determination was based on three conclusions. First, the determination concluded that without more, retweeting a tweet that contains an independent expenditure, which is in the public domain, at no cost, does not constitute making an expenditure with the candidate's participation under Minnesota Statutes section 10A.176, subdivision 7. Second, the determination concluded that without more, retweeting a tweet that contains a link to a donation page does not constitute fundraising within the meaning of Minnesota Statutes section 10A.176, subdivision 2. Third, the determination concluded that the expenditures in question were not otherwise approved expenditures. Therefore, the complaint was dismissed. The prima facie determination is attached to this memo.

### **Complaint regarding the Kim Crockett for Secretary of State Committee and APP PAC**

On October 24, 2022, the Board received a complaint submitted by the Minnesota DFL regarding the Kim Crockett for Secretary of State Committee, and the American Principles Project PAC-Minnesota Fund (APP PAC), an independent expenditure political fund.<sup>4</sup> The complaint alleged that Ms. Crockett retweeted a tweet of the APP PAC. The complaint alleged that the retweet destroyed the independence of the expenditure made by the APP PAC, causing both the expenditure associated with the tweet in question and subsequent expenditures by that fund to be coordinated expenditures and thereby contributions to the Crockett committee.

On November 4, 2022, Vice Chair Soule concluded that the complaint did not state a prima facie violation of any statute under the Board's jurisdiction. That determination was based on

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<sup>3</sup> [cfb.mn.gov/pdf/bdactions/1600\\_Complaint.pdf](https://cfb.mn.gov/pdf/bdactions/1600_Complaint.pdf)

<sup>4</sup> [cfb.mn.gov/pdf/bdactions/1601\\_Complaint.pdf](https://cfb.mn.gov/pdf/bdactions/1601_Complaint.pdf)

two conclusions. First, the determination concluded that without more, retweeting a tweet that contains an independent expenditure, which is in the public domain, at no cost, does not constitute making an expenditure with the candidate's participation under Minnesota Statutes section 10A.176, subdivision 7. Second, the determination concluded that the expenditure in question was not otherwise an approved expenditure. Therefore, the complaint was dismissed. The prima facie determination is attached to this memo.

### **Complaint regarding Bernie (Perryman) For House**

On September 14, 2022, the Board received a complaint submitted by Chantal Oechsle regarding Bernie (Perryman) For House.<sup>5</sup> The complaint alleged that the Perryman committee ran radio advertisements without providing a transcript of the advertisements in violation of Minnesota Statutes section 10A.38.

On September 29, 2022, Chair Rashid concluded that the complaint did not state a prima facie violation of any statute under the Board's jurisdiction. The determination concluded that the Perryman committee was not required to provide a transcript for any radio advertisements because the candidate did not sign a public subsidy agreement, and therefore was not subject to Minnesota Statutes section 10A.38. Therefore, the complaint was dismissed. The prima facie determination is attached to this memo.

#### Attachments:

Schultz, *et al.* prima facie determination  
Jensen and Heal Minnesota prima facie determination  
Crockett and APP PAC prima facie determination  
Perryman prima facie determination

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<sup>5</sup> [cfb.mn.gov/pdf/bdactions/1599\\_Complaint.pdf](https://cfb.mn.gov/pdf/bdactions/1599_Complaint.pdf)

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

**PRIMA FACIE  
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF JON ERIK KINGSTAD REGARDING JIM SCHULTZ FOR MINNESOTA ATTORNEY GENERAL, KOCH INDUSTRIES, INC., FLINT HILLS RESOURCES PINE BEND, LLC, KOCH COMPANIES PUBLIC SECTOR, LLC, PINE BEND PAC, RON EIBENSTEINER, CENTER OF THE AMERICAN EXPERIMENT, AND UPPER MIDWEST LAW CENTER

On October 11, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Jon Erik Kingstad regarding James Schultz, a candidate for attorney general, and his principal campaign committee, Jim Schultz For Minnesota Attorney General, the Pine Bend PAC, a political committee assigned Board registration number 40821, Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC, Ron Eibensteiner, the Center of the American Experiment, and the Upper Midwest Law Center. On October 13, 2022, the Board received a supplement to the complaint submitted by Mr. Kingstad. For purposes of this prima facie determination the supplement will be considered part of the original complaint.

**Pine Bend PAC and Koch Industries, Inc. and its Subsidiaries and Affiliates**

The complaint alleges, and campaign finance reports filed with the Board by the Schultz committee and the Pine Bend PAC reflect, that the Pine Bend PAC made a \$2,500 monetary contribution to the Schultz committee in September of 2022. The complaint asserts, and Board records reflect, that the Pine Bend PAC is a political committee and is not an independent expenditure political committee. The complaint alleges that the contribution made by the Pine Bend PAC was a corporate contribution prohibited by Minnesota Statutes section 211B.15. The complaint does not allege that the Pine Bend PAC is a corporation. Rather, the complaint asserts that:

Pine Bend PAC has been accepting and making contributions for over 20 years on behalf of Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, and other subsidiaries and affiliates of Koch Industries, Inc. and the owners and principal officers and directors of Koch Industries, Inc., including Charles G. Koch and the late David Koch.

The complaint alleges, and campaign finance reports filed with the Board by the Pine Bend PAC reflect, that David Koch made a \$20,000 contribution to the Pine Bend PAC in 2010 and Charles Koch made a \$25,000 contribution to the committee in 2011. The complaint asserts that those contributions were made using “the corporate or personal funds of the late David Koch and Charles G. Koch” and that the “Pine Bend PAC and its agents have commingled [those funds] with other contributions from members, employees, agents and officers of Koch Industries, Inc. and its subsidiaries and affiliates.” On that basis the complaint alleges that the Pine Bend PAC violated Minnesota Statutes section 10A.12, subdivision 2, which generally prohibits the commingling of the contents of an association’s political fund with other funds.

The complaint states that the Pine Bend PAC's treasurer, Matthew Lemke, is employed by Koch Companies Public Sector, LLC and Flint Hills Resources Pine Bend, LLC, which the complaint alleges are subsidiaries of Koch Industries, Inc. The complaint asserts that Charles Koch, as an officer of Koch Industries, Inc., manager of Koch Companies Public Sector, LLC, and principal owner of Flint Hills Resources Pine Bend, LLC, "knows who is contributing and how much and has the authority and right . . . to direct the expenditure of funds contributed to Pine Bend PAC."

The complaint alleges that Koch Industries, Inc. and Flint Hills Resources Pine Bend, LLC are defendants in a legal action, *State of Minnesota v. American Petroleum Institute, et al.*<sup>1</sup> The complaint references statements by Mr. Schultz quoted within an August 2022 Star Tribune article describing that action as "frivolous" and "fundamentally about business harassment." The complaint asserts that these and similar statements by Mr. Schultz:

were made by Schultz as a signal to communicate . . . that he and the Jim Schultz for Minnesota Attorney General Campaign would accept contributions directly or indirectly from any of the Defendants, including Koch Industries, Inc. and Flint Hills Resources Pine Bend, LLC, as *quid pro quo* for his commitment that, if elected as Minnesota Attorney General, he would fire the attorneys assigned to the case and corruptly delay, abate or discontinue, if not effect a voluntary dismissal of, the prosecution of *State of Minnesota v. American Petroleum Institute, et al.*,

Also, within a footnote the complaint raises the possibility that Mr. Schultz violated Minnesota Statutes section 609.42, which prohibits acts of bribery, when his campaign committee accepted a contribution from the Pine Bend PAC.

### **Ron Eibensteiner, the Center of the American Experiment, and the Upper Midwest Law Center**

The complaint alleges, and Board records reflect, that Ron Eibensteiner was the chair of the Schultz committee when the committee registered with the Board in December of 2021. Board records reflect that Mr. Eibensteiner was replaced as chair on June 13, 2022. The complaint asserts that when Mr. Eibensteiner was appointed as chair of the committee, Mr. Schultz knew that he was the chair of the board of directors of the Center of the American Experiment (CAE) and was a member of the board of directors of the Upper Midwest Law Center (UMLC). The complaint alleges that the CAE and the UMLC are each nonprofit corporations that do not qualify for the nonprofit corporation exemption under Minnesota Statutes section 211B.15, subdivision 15.

The complaint alleges that the CAE and the UMLC conducted "lobbying campaigns against legislative action and administrative action in Minnesota to address climate change which are consistent and in concert with having received funding from business corporations who have been charged with conducting the false advertising campaign in" *State of Minnesota v. American Petroleum Institute, et al.* The complaint alleges that the CAE, which is a lobbyist principal, "has never reported the direct payments to its lobbyists in this state as required by" Minnesota Statutes section 10A.04, subdivision 6, paragraph (c), clause (1). The complaint further alleges that the CAE has failed to provide

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<sup>1</sup> The Ramsey County District Court case number is 62-CV-20-3837.

information to its lobbyists pursuant to Minnesota Statutes section 10A.04, subdivision 3, regarding “each original source of money in excess of \$500 in any year used for the purpose of lobbying,” which lobbyists must include within reports required by that statute. The complaint alleges that this failure has allowed the CAE to conceal whether it receives significant contributions from business corporations.

The complaint alleges that Mr. Eibensteiner “agreed to provide free political consulting services and related information services not publicly available regarding campaign planning, strategy, needs planning, and messaging free of charge on behalf of and for the benefit of” the CAE and the UMLC, to the Schultz committee. The complaint asserts that in return for those services, Mr. Schultz “would make the action of *State of Minnesota v. American Petroleum Institute, et al*, an issue of his campaign and make it known publicly his intention that if elected Minnesota Attorney General, he would” discontinue or delay “the prosecution of the action and fire the attorneys working on the action. . . .” The complaint alleges that in exchange for those services, Mr. Schultz would also criticize climate change as a hoax or otherwise repeat the CAE’s messaging regarding climate change, the oil and fossil fuel industries, etc., and would coordinate with the CAE’s messaging “blaming elected Democratic Party officials, including Ellison, for being anti-police, responsible for rising crime and for the violence and damage which occurred after the murder of George Floyd by a policeman in May, 2020.” The complaint alleges that dismissal of *State of Minnesota v. American Petroleum Institute, et al*. would benefit Mr. Schultz, the CAE, and the UMLC, by avoiding “the possibility of having any significant funding or other contributions from business corporations being revealed and made public.”

The complaint refers to and includes copies of three magazine articles and three blog posts published by the CAE regarding special assistant attorneys general who were involved with *State of Minnesota v. American Petroleum Institute, et al.*, and describing a lawsuit brought by the UMLC on behalf of Energy Policy Advocates seeking data regarding those attorneys. The complaint asserts that those publications are evidence that “Schultz’s campaign is in cooperation and in concert with” the “public relations campaign” of the CAE and the UMLC. Mr. Eibensteiner authored one of the magazine articles, which was published in the Fall 2019 edition of the CAE’s magazine, *Thinking Minnesota*. The complaint does not allege that any of the publications contained express advocacy in support of Mr. Schultz or in opposition to any other candidate for attorney general.

The complaint states, and a campaign finance report filed with the Board by the Schultz committee reflects, that Mr. Eibensteiner made a \$2,500 monetary contribution to the Schultz committee in December of 2021. The complaint alleges that the contribution was made on behalf of the CAE and the UMLC and was “was disguised as a personal ‘independent expenditure’ which was accepted by” the Schultz committee:

as *quid pro quo* for Eibensteiner’s free campaign advice and other services in exchange for the agreement from James Schultz that, if elected as Minnesota Attorney General, he would fire all of the attorneys assigned to *State of Minnesota v. American Petroleum Institute, et al* and discontinue, delay, abate, or dismiss that action.

The complaint asserts that “[t]here is reason to believe that other contributions received and accepted by” the Schultz committee “from members or former members of the CAE Board of



Directors have not been ‘independent expenditures’ but in reality, *quid pro quo* contributions coordinated by” Mr. Eibensteiner as an agent for the CAE and the UMLC, “for the reciprocal benefit and advantage of” those entities. Specifically, the complaint refers to two contributions totaling \$2,500 made to the Schultz committee in 2022 by Douglas Seaton, the president of the UMLC. The complaint asserts that “[t]hese were coordinated contributions by individuals which” the CAE and the UMLC, “as corporations, were prohibited from making . . . and were not ‘independent expenditures’” as defined by Minnesota Statutes section 10A.01, subdivision 18.

### **Circumvention and Other Allegations**

The complaint asks the Board to investigate whether the foregoing alleged facts constituted circumvention of the contribution limits and reporting requirements of Chapter 10A, in violation of Minnesota Statutes section 10A.29. The complaint alleges a violation of Minnesota Statutes section 10A.121, without identifying any independent expenditure or ballot question political committee or fund that allegedly violated that statute and without clearly explaining what conduct occurred that constituted a violation. Lastly, the complaint alleges that one or more entities named in the complaint violated Minnesota Statutes sections 10A.175 through 10A.177, which establish the circumstances under which an expenditure that contains express advocacy is a coordinated expenditure and is not an independent expenditure.

The complaint includes copies of the complaint filed in State of Minnesota v. American Petroleum Institute, *et al.*, labeled Exhibit A; an August 2022 Star Tribune article containing statements by Mr. Schultz regarding that legal action, labeled Exhibit B; an August 2022 blog post published by the Independent Petroleum Association of America regarding that legal action and the Star Tribune’s new coverage, labeled Exhibit C; a portion of a fall 2019 magazine article authored by Mr. Eibensteiner and published by the CAE regarding climate change and the Green New Deal, labeled Exhibit D; a fall 2019 magazine article published by the CAE regarding a lawsuit brought by the UMLC on behalf of Energy Policy Advocates seeking data regarding special assistant attorneys general, labeled Exhibit E; an August 2019 blog post published by the CAE regarding those attorneys, labeled Exhibit F; a June 2021 blog post published by the CAE regarding those attorneys and a lawsuit brought by the UMLC on behalf of Energy Policy Advocates seeking data regarding those attorneys, labeled Exhibit G; a July 2021 blog post published by the CAE regarding the same topic, labeled Exhibit H; and a Spring 2022 magazine article published by the CAE regarding the same topic, labeled Exhibit I.

### **Determination**

#### **Corporate Contributions**

Minnesota Statutes section 211B.15, subdivision 1, defines the term corporation to mean “(1) a corporation organized for profit that does business in this state; (2) a nonprofit corporation that carries out activities in this state; or (3) a limited liability company formed under chapter 322C, or under similar laws of another state, that does business in this state.” Minnesota Statutes section 211B.15, subdivision 2, provides that:

(a) A corporation may not make a contribution or offer or agree to make a contribution directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office.

(b) A political party, organization, committee, or individual may not accept a contribution or an offer or agreement to make a contribution that a corporation is prohibited from making under paragraph (a).

(c) For the purpose of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate but does not include an independent expenditure authorized by subdivision 3.

Minnesota Statutes section 211B.15, subdivision 13 prohibits any individual from aiding, abetting, or advising a violation of that section. Minnesota Statutes section 211B.15, subdivision 15, provides that the prohibition on corporate contributions does:

not apply to a nonprofit corporation that:

- (1) is not organized or operating for the principal purpose of conducting a business;
- (2) has no shareholders or other persons affiliated so as to have a claim on its assets or earnings; and
- (3) was not established by a business corporation or a labor union and has a policy not to accept significant contributions from those entities.

The complaint does not allege that the Pine Bend PAC is a corporation. A contribution made or offered by an entity that is not a corporation is generally not prohibited by Minnesota Statutes section 211B.15, subdivision 2, unless the contribution is made or offered on behalf of a corporation. The complaint alleges that Charles Koch has the authority to direct expenditures made by the Pine Bend PAC. The complaint notes that Charles Koch is an owner and director of Koch Industries, Inc., but does not explain why that status affords him the authority to direct the expenditures of the Pine Bend PAC. Moreover, the complaint does not allege, or include direct evidence indicating, that Charles Koch or any corporation actually directed the Pine Bend PAC to make a contribution to the Schultz committee. The complaint asserts that the "Pine Bend PAC has been accepting and making contributions for over 20 years on behalf of Koch Industries, Inc. . . . and other subsidiaries and affiliates," but does not include direct evidence that any corporation controls the activities of the Pine Bend PAC. The assertion that the treasurer of the Pine Bend PAC is employed by, and a lobbyist for, Koch Companies Public Sector, LLC, does not demonstrate that the treasurer acts on behalf of any corporation. Similarly, the asserted fact that a substantial portion of the contributions received by the Pine Bend PAC were made by employees or owners of Koch Industries, Inc. and its subsidiaries and affiliates, does not demonstrate that any corporation directed the individuals to make

donations on behalf of the corporation, or that the contributions represent circumvention of the provisions of Chapter 10A.

To the extent that the complaint alleges that any corporation directed Pine Bend PAC to make a contribution to the Schultz committee, the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15 by the Pine Bend PAC, Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC, the Schultz committee, or Mr. Schultz, because that allegation is based on speculation unsupported by evidence. To the extent that the complaint alleges that any individual aided, abetted, or advised a violation of Minnesota Statutes section 211B.15 with respect to the contribution made by the Pine Bend PAC to the Schultz committee, the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15, subdivision 13, because that allegation is based on speculation unsupported by evidence. To the extent that the complaint alleges that David Koch or Charles Koch made a contribution to the Pine Bend PAC using corporate funds, the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15 by the Pine Bend PAC or by any individual, because that allegation is based on speculation unsupported by evidence.

The complaint does not allege that Mr. Eibensteiner, Mr. Seaton, or any other individual, is a corporation. A contribution made or offered by an entity that is not a corporation is generally not prohibited by Minnesota Statutes section 211B.15, subdivision 2, unless the contribution is made or offered on behalf of a corporation. The complaint asserts that monetary contributions made to the Schultz committee by Mr. Eibensteiner, Mr. Seaton, and other “members or former members of the CAE Board of Directors” were made on behalf of the CAE and the UMLC. However, the complaint does not allege, or include evidence indicating, that funds used to make those contributions were provided by the CAE or the UMLC or that either of those organizations directed any individual to make a contribution to the Schultz committee. Therefore, the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15 with respect to monetary contributions made to the Schultz committee by individuals.

The complaint also alleges that services provided by Mr. Eibensteiner were contributions made to the Schultz committee on behalf of the CAE and the UMLC. Minnesota Statutes section 10A.01, subdivision 11, paragraph (c), provides that the term contribution “does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate. . . .” The complaint alleges and includes evidence that Mr. Eibensteiner has served as the chairman of the CAE’s board of directors and as a member of the UMLC’s board of directors, but the complaint does not allege that Mr. Eibensteiner was compensated by those organizations for services that he allegedly provided to the Schultz committee.

The complaint asserts that Mr. Eibensteiner provided services to the Schultz committee on behalf of and for the benefit of the CAE and the UMLC. However, the evidence included in the complaint that appears to be offered in support of that assertion is limited to articles and blog posts indicating that Mr. Eibensteiner has served on the board of directors of each organization and that those organizations have espoused viewpoints on matters of public policy and law that in some cases align with viewpoints espoused by Mr. Schultz and the Schultz committee. The lone article included in the

complaint that was authored by Mr. Eibensteiner was published in 2019, approximately two years before the Schultz committee registered with the Board. The assertions that Mr. Eibensteiner was the chair of the Schultz committee and has also served on the boards of directors of the CAE and the UMLC are not, in themselves, a sufficient basis to investigate whether those organizations compensated Mr. Eibensteiner for services provided to the Schultz committee or in any way directed the provision of those services.

For the forgoing reasons the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15 by Mr. Eibensteiner, the CAE, the UMLC, the Schultz committee, or Mr. Schultz, with respect to services allegedly provided by Mr. Eibensteiner, because that allegation is based on speculation unsupported by evidence.

### **Circumvention**

The complaint asks the Board to investigate whether the foregoing allegations constituted circumvention in violation of Minnesota Statutes section 10A.29, which provides that an individual or association is prohibited from attempting “to circumvent this chapter by redirecting a contribution through, or making a contribution on behalf of, another individual or association. . . .” The complaint does not appear to affirmatively allege circumvention or explain what provision within Minnesota Statutes Chapter 10A may have been circumvented. Moreover, to the extent that the complaint alleges that any particular alleged contribution was redirected or made on behalf of another individual or association, those allegations are not accompanied by direct evidence indicating that the true source of the contribution was a corporation or other type of entity other than the individual or association that was recorded as having made the contribution in question. Therefore, the complaint does not state a prima facie violation of Minnesota Statutes section 10A.29.

### **Commingling**

The complaint alleges that contributions made to the Pine Bend PAC by David Koch and Charles Koch in 2010 and 2011 have been “commingled with other contributions from members, employees, agents, and officers of Koch Industries, Inc. and its subsidiaries and affiliates,” in violation of Minnesota Statutes section 10A.12, subdivision 2. The statute cited in the complaint applies to political funds and does not apply to political committees such as the Pine Bend PAC. However, a very similar provision applies to political committees, Minnesota Statutes section 10A.11, subdivision 5. That statute provides that a political committee “may not commingle its funds with personal funds of officers, members, or associates of the committee.” The complaint does not explain how money given by individuals to the Pine Bend PAC over a decade ago remained the personal funds of those individuals after the money was used to make political contributions to the Pine Bend PAC, such that it would constitute commingling to deposit that money in the same account used for other contributions received by the committee. A political committee does not violate Minnesota Statutes section 10A.11, subdivision 5, if contributions made by some individuals are combined with contributions made by other individuals into the same account. The purpose of the statute is to prevent a committee’s funds from being combined with the personal funds of its officers, members, and associates. The purpose of the statute is not to prevent contributions from multiple sources from

being combined within a single account. For the forgoing reasons the complaint does not state a prima facie violation of Minnesota Statutes sections 10A.11, subdivision 5, or 10A.12, subdivision 2.

### **Contribution by an Independent Expenditure Political Committee or Fund**

The complaint alleges a violation of Minnesota Statutes section 10A.121, which prohibits independent expenditure political committees and funds from making a contribution to “a candidate, local candidate, party unit, political committee, or political fund other than an independent expenditure political committee or an independent expenditure political fund.” The only political committee or fund that is identified in the complaint is the Pine Bend PAC, which the complainant acknowledges is not an independent expenditure political committee or fund, but rather is a general purpose political committee. Also, the complaint does not explain the substance of the alleged violation. Therefore, the complaint does not state a prima facie violation of Minnesota Statutes section 10A.121.

### **Coordinated Expenditures**

The complaint alleges a violation of Minnesota Statutes sections 10A.175 through 10A.177. Those provisions generally describe relationships, communication, and other connections between a candidate and a political committee, political fund, or political party unit, that would cause an expenditure made by one of those entities to be a coordinated expenditure made on behalf of the candidate. Coordination with a candidate is not prohibited by those statutes. Rather, those provisions are used to distinguish between a coordinated expenditure, which is defined as a contribution to the candidate on whose behalf the expenditure is made, and an independent expenditure. There is no means by which an individual or association may violate those provisions because the statutes do not prohibit any particular activity. The complaint therefore does not state a prima facie violation of Minnesota Statutes sections 10A.175 through 10A.177.

### **Lobbyist Reports**

Minnesota Statutes section 10A.04, subdivision 6, requires each lobbyist principal, including the CAE, to file an annual report disclosing the total amounts spent on two categories of lobbying, rounded to the nearest \$20,000. Paragraph (c), clause (1) of that provision provides that those totals must include “all direct payments by the principal to lobbyists in this state.” The complaint alleges that the CAE “has never reported the direct payments to its lobbyists in this state. . . .” Board records reflect that the CAE has filed a report disclosing at least \$20,000 in lobbying disbursements for each of the past six years. To the extent that the complaint alleges that the principal reports filed by the CAE are not inclusive of compensation paid by the CAE to its own lobbyists, the complaint does not state a prima facie violation of Minnesota Statutes section 10A.04, subdivision 6, because that allegation is based on speculation unsupported by evidence.

The complaint alleges that the CAE has failed to provide its lobbyists with information needed to report original sources of funds paid to CAE by other individuals or associations specifically for lobbying in Minnesota. Minnesota Statutes section 10A.04, subdivision 3, provides that “[a]n employer or employee about whose activities a lobbyist is required to report must provide the

information required by subdivision 4 to the lobbyist no later than five days before the prescribed filing date.” Minnesota Statutes section 10A.04, subdivision 4, paragraph (d), provides that “[a] lobbyist must report each original source of money in excess of \$500 in any year used for the purpose of lobbying. . . .” Minnesota Rules 4511.0100, subpart 5, defines the term original source of funds to mean “a source of funds, other than the entity for which a lobbyist is registered, paid to the lobbyist, the lobbyist's employer, the entity represented by the lobbyist, or the lobbyist's principal, for lobbying purposes.”

The complaint alleges that the CAE failed to provide information to its lobbyists regarding each original source of money. The complaint does not identify any original source of money that paid more than \$500 within any year to the CAE or any of its lobbyists for the purpose of lobbying and was excluded from lobbyist reports filed for that year by the CAE’s lobbyists. The complaint does not include evidence that any such original source of money exists or that any failure to report that source was caused by the CAE’s failure to provide information to its lobbyists. Therefore, the complaint does not state a prima facie violation of Minnesota Statutes section 10A.04, subdivision 3, by the CAE, because that allegation is based on speculation unsupported by evidence.

### **Bribery**

The Board does not have investigative authority with respect to Minnesota Statutes section 609.42.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (c), this prima facie determination is made by a single Board member and not by any vote of the entire Board. Based on the above analysis, the Chair concludes that the complaint does not state a prima facie violation of Chapter 10A or of those sections of Chapter 211B under the Board’s jurisdiction. The complaint is dismissed without prejudice.



Faris Rashid, Chair  
Campaign Finance and Public Disclosure Board

Date: October 24, 2022

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

**PRIMA FACIE  
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF THE MINNESOTA DFL REGARDING THE DR. SCOTT JENSEN FOR GOVERNOR COMMITTEE AND HEAL MINNESOTA

On October 24, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by the Minnesota DFL regarding the Dr. Scott Jensen for Governor committee and Heal Minnesota. Dr. Scott Jensen for Governor is the principal campaign committee of Dr. Scott Jensen. Heal Minnesota is an independent expenditure political committee, assigned Board registration number 41322.

The complaint alleges and provides evidence that Heal Minnesota issued several tweets advocating for the defeat of Governor Tim Walz. One of those tweets, dated October 18, 2022, contained a 30-second video with audio stating “End Tim Walz’s chaos. Vote Scott Jensen for governor.”<sup>1</sup> The video included text stating “VOTE SCOTT JENSEN FOR GOVERNOR” and a text disclaimer stating that it was paid for by “HEAL MINNESOTA PAC.” The tweet included a link to a webpage where individuals could make a contribution to Heal Minnesota.<sup>2</sup> The complaint alleges and provides evidence that Dr. Jensen quote-tweeted Heal Minnesota’s tweet containing the video, adding the word “Wow!”, on October 18, 2022.<sup>3</sup> The complaint alleges and provides evidence that Matt Birk, Dr. Jensen’s running-mate and candidate for lieutenant governor, retweeted the same tweet, as did Angela Cooperman. The complaint asserts that Ms. Cooperman is the campaign manager for the Jensen campaign. The complaint alleges and provides evidence that the act of retweeting the October 18 tweet “substantially increased the reach of the campaign material” because Heal Minnesota had only 166 followers on Twitter while Dr. Jensen and Mr. Birk had approximately 91,900 and 39,600 followers, respectively.

The complaint also alleges and provides evidence that Heal Minnesota issued a tweet on October 17, 2022, stating in relevant part that “[e]veryone is feeling the heavy weight of Tim Walz’s failed leadership. Vote Him OUT!”<sup>4</sup> The complaint alleges and provides evidence that Ms. Cooperman retweeted that tweet.

The complaint alleges that the actions of Dr. Jensen, Mr. Birk, and Ms. Cooperman “undermine the independence of the expenditures” and made them coordinated expenditures because the candidates participated in the distribution of the final product. The complaint asserts that as a result of retweeting one or more tweets, the candidates and their agent

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<sup>1</sup> [twitter.com/HealMNPAC/status/1582385966844907520](https://twitter.com/HealMNPAC/status/1582385966844907520)

<sup>2</sup> [secure.anedot.com/heal-minnesota-pac/website-links](https://secure.anedot.com/heal-minnesota-pac/website-links)

<sup>3</sup> [twitter.com/drscottjensen/status/1582467231497089032](https://twitter.com/drscottjensen/status/1582467231497089032)

<sup>4</sup> [twitter.com/HealMNPAC/status/1582038574542700544](https://twitter.com/HealMNPAC/status/1582038574542700544)

have expressly consented to not only that specific expenditure but also to the subsequent publication of similar campaign materials affecting the race. The candidates and the campaign are saying to Heal Minnesota, “we like what you are doing, keep it up.” This endorsement of the campaign material means that all subsequent campaign material distributed by Heal Minnesota supporting the election of Scott Jensen and Matt Birk or advocating for the defeat of Governor Tim Walz are “coordinated expenditures” and must be reported as contributions subject to the \$4,000 contribution limit.

The complaint further asserts that because the October 18 tweet included a link to Heal Minnesota’s contribution webpage, Dr. Jensen and Mr. Birk “engaged in fundraising of . . . money for Heal Minnesota . . . which renders all expenditures supporting their election or the defeat of Governor Walz made during this election ‘coordinated expenditures.’”

### **Determination**

An expenditure generally consists of “a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate” and an “expenditure made for the purpose of defeating a candidate . . . is considered made for the purpose of influencing the nomination or election of that candidate . . . or any opponent of that candidate.” Minn. Stat. § 10A.01, subd. 9.

Minnesota Statutes section 10A.01, subdivision 18, defines the term independent expenditure, in relevant part, as follows:

"Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate or local candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent or any local candidate or local candidate's agent. An independent expenditure is not a contribution to that candidate or local candidate.

“To be an independent expenditure, a communication and all of the processes leading to its eventual publication must meet the requirements of the independent expenditure definition cited above.” In the Matter of the Investigation of Expenditures Made by the Minnesota DFL Senate Caucus Party Unit (Dec. 17, 2013), at 6<sup>5</sup> The independence of an expenditure is not destroyed by using campaign material in the public domain when there is no evidence that a candidate or their agent provided consent to, or cooperated with, an entity in making that entity’s expenditure. In the Matter of the Complaint of the Republican Party of Minnesota Regarding the Minnesota DFL Party and the Mark Dayton for a Better Minnesota Committee (Jan. 6, 2015), at 3.<sup>6</sup>

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<sup>5</sup> Available at [cfb.mn.gov/pdf/bdactions/1296\\_Findings.pdf](http://cfb.mn.gov/pdf/bdactions/1296_Findings.pdf).

<sup>6</sup> Available at [cfb.mn.gov/pdf/bdactions/1331\\_Probable\\_cause\\_determination.pdf](http://cfb.mn.gov/pdf/bdactions/1331_Probable_cause_determination.pdf).



Minnesota Statutes section 10A.01, subdivision 4, defines the term approved expenditure as follows:

"Approved expenditure" means an expenditure made on behalf of a candidate or a local candidate by an entity other than the candidate's principal campaign committee or the local candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate or local candidate, the candidate's principal campaign committee, or the candidate's or local candidate's agent. An approved expenditure is a contribution to that candidate or local candidate.

Minnesota Statutes section 10A.175 defines several terms for purposes of that section through section 10A.177. The term candidate "means a candidate as defined in section 10A.01, subdivision 10, the candidate's principal campaign committee, or the candidate's agent." The term agent "means a person serving during an election segment as a candidate's chairperson, deputy chairperson, treasurer, deputy treasurer, or any other person whose actions are coordinated." The term coordinated "means with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate. A coordinated expenditure is an approved expenditure under section 10A.01, subdivision 4." Finally, the term spender means "an individual, an association, a political committee, a political fund, an independent expenditure political committee, an independent expenditure political fund, or a party unit."

Minnesota Statutes section 10A.176, subdivision 7, provides that:

An expenditure is a coordinated expenditure if the expenditure is made with the candidate's participation in the following:

- (1) any of the processes required for the creation and development of the expenditure, including budgeting decisions, media design, acquisition of graphics and text, production, and distribution of the final product; or
- (2) any decision regarding the content, timing, location, intended audience, volume of distribution, or frequency of the expenditure.

Minnesota Statutes section 10A.176, subdivision 2, provides as follows with respect to fundraising:

- (a) An expenditure is a coordinated expenditure if the expenditure is made on or after January 1 of the year the office will appear on the ballot by a spender for which the candidate, on or after January 1 of the year the office will appear on the ballot, has engaged in fundraising of money that is not general treasury money, as defined in section 10A.01, subdivision 17c, of the spender.
- (b) For purposes of this subdivision, candidate fundraising includes:

- (1) soliciting or collecting money for or to the spender that is not general treasury money; and
- (2) appearing for the spender as a speaker at an event raising money that is not general treasury money.
- (c) This subdivision does not apply to a candidate's fundraising on behalf of a party unit.

A coordinated expenditure is an approved expenditure, therefore it is a contribution to the candidate on whose behalf it was made and is subject to the individual contribution limit. The individual contribution limit applicable to candidates for governor and lieutenant governor running together during the 2021-2022 election cycle segment is \$4,000. Minn. Stat. § 10A.27, subd. 1 (a) (1).

Minnesota Statutes section 10A.121, subdivision 1, provides that independent expenditure political committees may make independent expenditures, while subdivision 2 provides penalties for certain actions by an independent expenditure political committee. The statute provides that

a) An independent expenditure political committee or independent expenditure political fund is subject to a civil penalty of up to four times the amount of the contribution or approved expenditure if it does the following:

- (1) makes a contribution to a candidate, local candidate, party unit, political committee, or political fund other than an independent expenditure political committee or an independent expenditure political fund; or
- (2) makes an approved expenditure.

(b) No other penalty provided in law may be imposed for conduct that is subject to a civil penalty under this section.

The term approved expenditure is defined in a manner designed to prevent a candidate from communicating with an association about an independent expenditure in support of that candidate or against that candidate's opponent that the association may intend to make. Minnesota Statutes sections 10A.175 through 10A.177 describe relationships, communication, and other connections that would cause an expenditure to be a coordinated expenditure and not an independent expenditure. Those provisions do not prohibit all relationships between candidates and entities that may make independent expenditures. For example, Minnesota Statutes section 10A.177 provides that a candidate may, without destroying the independence of any subsequent expenditure, provide "to a spender names of potential donors, as long as the spender does not state or suggest to the candidate that funds received from use of the donor list will be used for independent expenditures to benefit the candidate." Minnesota Statutes section 10A.177 provides that a spender may make a contribution to a candidate that it is not otherwise prohibited from making, without destroying the independence of any future expenditure related to that candidate, and an independent expenditure may include a link to a

candidate's website or social media page. Minnesota Statutes section 10A.177 also provides that a spender may use "a photograph, video, or audio recording obtained from a publicly available source or public event" without destroying the independence of an expenditure.

The complaint does not allege that Dr. Jensen, Mr. Birk, or Ms. Cooperman directly asked anyone to make a contribution to Heal Minnesota. Rather, the complaint alleges and provides evidence that they retweeted a tweet containing a video, text, and a link to Heal Minnesota's contribution webpage. Without more, retweeting a tweet that contains a link to a webpage where someone may make a contribution to a spender does not constitute "soliciting or collecting money" for that spender within the meaning of Minnesota Statutes section 10A.176, subdivision 2. Therefore, expenditures made by Heal Minnesota are not coordinated expenditures by virtue of the inclusion of a donation link within the October 18 tweet.

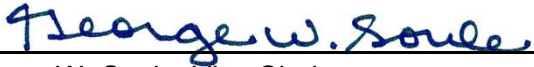
Minnesota Statutes section 10A.176, subdivision 7, classifies an expenditure as coordinated if it "is made with the candidate's participation in... (1) any of the processes required for the creation and development of the expenditure, including budgeting decisions, media design, acquisition of graphics and text, and distribution of the final product." In this case any expenditures made by Heal Minnesota likely consisted of the cost to produce the video embedded within the October 18 tweet, and a significantly lesser amount for any services related to creating and sending the two tweets as well as creating the graphics included in the October 17 tweet.

The complaint does not allege that the Jensen committee made an expenditure in order to retweet the tweets of Heal Minnesota, or otherwise disseminate the video or graphics included in those tweets. The complaint does not allege that the Jensen committee coordinated with Heal Minnesota prior to, or during, any of the processes used to create and develop the expenditures, as provided in Minnesota Statutes section 10A.176, subdivision 7. The complaint does not allege that the Jensen committee communicated with Heal Minnesota after those expenditures were made, or after the expenditures had been released to the public domain. Without more, retweeting a tweet that contains content that is an independent expenditure, that is in the public domain, at no cost, does not constitute making an expenditure with the candidate's participation within the meaning of Minnesota Statutes section 10A.176, subdivision 7. Therefore, expenditures made by Heal Minnesota are not coordinated expenditures by virtue of Dr. Jensen, Mr. Birk, and Ms. Cooperman retweeting the tweets referenced in the complaint.

Having concluded that the tweets referenced in the complaint were not coordinated expenditures based on the facts alleged in the complaint, the question that remains is whether the tweets or their content were nonetheless approved expenditures. The complaint asserts that by retweeting the tweets in question, the candidates consented to Heal Minnesota's expenditures. However, consent cannot be given after the fact, or in this case, after the independent expenditure has been released to the public. Further, retweeting the content of one expenditure by a spender does not by itself constitute consent to any expenditure that may be made in the future by that same spender. At the time the tweets referenced in the complaint were retweeted, the expenditures that the complaint alleges were made had already occurred.

The alleged violation of the individual contribution limit and any alleged violation of the prohibition on contributions by independent expenditure political committees, stated by the complaint, is premised upon the assertion that Heal Minnesota made a contribution to the Jensen committee. Because the facts alleged in the complaint do not support that assertion, the complaint does not state a prima facie violation of Minnesota Statutes sections 10A.27, subdivision 1, or 10A.121.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (c), this prima facie determination is made by a single Board member and not by any vote of the entire Board. Based on the above analysis, the Vice Chair concludes that the complaint does not state a prima facie violation of Chapter 10A or of those sections of Chapter 211B under the Board's jurisdiction. The complaint is dismissed without prejudice.



George W. Soule, Vice Chair  
Campaign Finance and Public Disclosure Board

Date: November 4, 2022

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

**PRIMA FACIE  
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF THE MINNESOTA DFL REGARDING THE KIM CROCKETT FOR SECRETARY OF STATE COMMITTEE AND THE AMERICAN PRINCIPLES PROJECT PAC-MINNESOTA FUND

On October 24, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by the Minnesota DFL regarding the Kim Crockett for Secretary of State Committee and the American Principles Project PAC-Minnesota Fund. The Kim Crockett for Secretary of State Committee is the principal campaign committee of Kim Crockett. The American Principles Project PAC-Minnesota Fund (APP PAC) is an independent expenditure political fund, assigned Board registration number 30743. The APP PAC was registered with the Board on October 26, 2022, two days after the complaint was filed.

The complaint alleges and provides evidence that the APP PAC issued a tweet on October 21, 2022, advocating for the defeat of Secretary of State Steve Simon. The tweet contained a 30-second video with text stating “VOTE AGAINST STEVE SIMON.”<sup>1</sup> The video included a text disclaimer stating that it was an independent expenditure paid for by the “AMERICAN PRINCIPLES PROJECT PAC – MINNESOTA FUND.” The complaint alleges and provides evidence that Ms. Crockett retweeted that tweet, thereby increasing its audience to include her Twitter followers. The complaint alleges that the video embedded in the tweet is also being broadcast on television.

The complaint alleges that the retweet undermines the independence of the expenditure and made it a coordinated expenditure because Ms. Crockett participated in the distribution of the final product. The complaint asserts:

By retweeting the campaign material the Crockett Campaign expressly consented to not only that specific expenditure but also to the subsequent publication of similar campaign materials affecting the race. The candidates and the campaign are saying to American Principles, “we like what you are doing, keep it up.” This endorsement of the campaign material means that all subsequent campaign material distributed by American Principles supporting the election of Kim Crockett or advocating for the defeat of Secretary of State Simon are “coordinated expenditures” and must be reported as contributions subject to the \$4,000 contribution limit.<sup>2</sup>

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<sup>1</sup> [twitter.com/approject/status/1583524243936976896](https://twitter.com/approject/status/1583524243936976896)

<sup>2</sup> The applicable individual contribution limit is \$2,000 rather than \$4,000.

## Determination

An expenditure generally consists of “a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate” and an “expenditure made for the purpose of defeating a candidate . . . is considered made for the purpose of influencing the nomination or election of that candidate . . . or any opponent of that candidate.” Minn. Stat. § 10A.01, subd. 9.

Minnesota Statutes section 10A.01, subdivision 18, defines the term independent expenditure, in relevant part, as follows:

"Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate or local candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent or any local candidate or local candidate's agent. An independent expenditure is not a contribution to that candidate or local candidate.

“To be an independent expenditure, a communication and all of the processes leading to its eventual publication must meet the requirements of the independent expenditure definition cited above.” In the Matter of the Investigation of Expenditures Made by the Minnesota DFL Senate Caucus Party Unit (Dec. 17, 2013), at 6<sup>3</sup> The independence of an expenditure is not destroyed by using campaign material in the public domain when there is no evidence that a candidate or their agent provided consent to, or cooperated with, an entity in making that entity's expenditure. In the Matter of the Complaint of the Republican Party of Minnesota Regarding the Minnesota DFL Party and the Mark Dayton for a Better Minnesota Committee (Jan. 6, 2015), at 3.<sup>4</sup>

Minnesota Statutes section 10A.01, subdivision 4, defines the term approved expenditure as follows:

"Approved expenditure" means an expenditure made on behalf of a candidate or a local candidate by an entity other than the candidate's principal campaign committee or the local candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate or local candidate, the candidate's principal campaign committee, or the candidate's or local candidate's agent. An approved expenditure is a contribution to that candidate or local candidate.

Minnesota Statutes section 10A.175 defines several terms for purposes of that section through section 10A.177. The term candidate “means a candidate as defined in section 10A.01, subdivision 10, the candidate's principal campaign committee, or the candidate's agent.” The term agent “means a person serving during an election segment as a candidate's chairperson,

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<sup>3</sup> Available at [cfb.mn.gov/pdf/bdactions/1296\\_Findings.pdf](http://cfb.mn.gov/pdf/bdactions/1296_Findings.pdf).

<sup>4</sup> Available at [cfb.mn.gov/pdf/bdactions/1331\\_Probable\\_cause\\_determination.pdf](http://cfb.mn.gov/pdf/bdactions/1331_Probable_cause_determination.pdf).

deputy chairperson, treasurer, deputy treasurer, or any other person whose actions are coordinated.” The term coordinated “means with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate. A coordinated expenditure is an approved expenditure under section 10A.01, subdivision 4.” Finally, the term spender means “an individual, an association, a political committee, a political fund, an independent expenditure political committee, an independent expenditure political fund, or a party unit.”

Minnesota Statutes section 10A.176, subdivision 7, provides that:

An expenditure is a coordinated expenditure if the expenditure is made with the candidate's participation in the following:

- (1) any of the processes required for the creation and development of the expenditure, including budgeting decisions, media design, acquisition of graphics and text, production, and distribution of the final product; or
- (2) any decision regarding the content, timing, location, intended audience, volume of distribution, or frequency of the expenditure.

A coordinated expenditure is an approved expenditure, therefore it is a contribution to the candidate on whose behalf it was made and is subject to the individual contribution limit. The individual contribution limit applicable to a candidate for secretary of state during the 2021-2022 election cycle segment is \$2,000. Minn. Stat. § 10A.27, subd. 1 (a) (3).

Minnesota Statutes section 10A.121, subdivision 1, provides that independent expenditure political funds may make independent expenditures, while subdivision 2 provides penalties for certain actions by an independent expenditure political fund. The statute provides that

a) An independent expenditure political committee or independent expenditure political fund is subject to a civil penalty of up to four times the amount of the contribution or approved expenditure if it does the following:

- (1) makes a contribution to a candidate, local candidate, party unit, political committee, or political fund other than an independent expenditure political committee or an independent expenditure political fund; or
- (2) makes an approved expenditure.

(b) No other penalty provided in law may be imposed for conduct that is subject to a civil penalty under this section.

The term approved expenditure is defined in a manner designed to prevent a candidate from communicating with an association about an independent expenditure in support of that candidate or against that candidate’s opponent that the association may intend to make. Minnesota Statutes sections 10A.175 through 10A.177 describe relationships, communication, and other connections that would cause an expenditure to be a coordinated expenditure and not an independent expenditure. Those provisions do not prohibit all relationships between candidates and entities that may make independent expenditures. For example, Minnesota

Statutes section 10A.177 provides that a candidate may, without destroying the independence of any subsequent expenditure, provide “to a spender names of potential donors, as long as the spender does not state or suggest to the candidate that funds received from use of the donor list will be used for independent expenditures to benefit the candidate.” Minnesota Statutes section 10A.177 provides that a spender may make a contribution to a candidate that it is not otherwise prohibited from making, without destroying the independence of any future expenditure related to that candidate, and an independent expenditure may include a link to a candidate’s website or social media page. Minnesota Statutes section 10A.177 also provides that a spender may use “a photograph, video, or audio recording obtained from a publicly available source or public event” without destroying the independence of an expenditure.

Minnesota Statutes section 10A.176, subdivision 7, classifies an expenditure as coordinated if it “is made with the candidate’s participation in... (1) any of the processes required for the creation and development of the expenditure, including budgeting decisions, media design, acquisition of graphics and text, and distribution of the final product.” In this case any expenditures made by the APP PAC likely consisted almost entirely of the cost to produce the video embedded within the tweet.


The complaint does not allege that the Crockett committee made an expenditure in order to retweet the tweet of the APP PAC or otherwise disseminate the video included in that tweet. The complaint does not allege that the Crockett committee coordinated with APP PAC prior to, or during, any of the processes used to create and develop the expenditures, as provided in Minnesota Statutes section 10A.176, subdivision 7. The complaint does not allege that the Crockett committee communicated with APP PAC after those expenditures were made, or after the expenditures had been released to the public domain. The complaint does not allege that the Crockett committee communicated with the APP PAC prior to the APP PAC’s expenditures being made or coordinated its actions with the APP PAC while those expenditures were being made. Without more, retweeting a tweet that contains content that is an independent expenditure, that is in the public domain, at no cost, does not constitute making an expenditure with the candidate’s participation within the meaning of Minnesota Statutes section 10A.176, subdivision 7. Therefore, expenditures made by the APP PAC are not coordinated expenditures by virtue of Ms. Crockett retweeting the tweet referenced in the complaint.

Having concluded that the tweet referenced in the complaint was not a coordinated expenditure based on the facts alleged in the complaint, the question that remains is whether the tweet or its content was nonetheless an approved expenditure. The complaint asserts that by retweeting the tweet, the Crockett committee consented to the APP PAC’s expenditures. However, consent cannot be given after the fact, or in this case, after the independent expenditure has been released to the public. Further, retweeting the content of one expenditure by a spender does not by itself constitute consent to any expenditure that may be made in the future by that same spender. Without more, retweeting a tweet that contains a video does not constitute consent to make future expenditures containing that video within the meaning of Minnesota Statutes section 10A.01, subdivision 4.



The alleged violation of the individual contribution limit and any alleged violation of the prohibition on contributions by independent expenditure political funds, stated by the complaint, is premised upon the assertion that the APP PAC made a contribution to the Crockett committee. Because the facts alleged in the complaint do not support that assertion, the complaint does not state a prima facie violation of Minnesota Statutes sections 10A.27, subdivision 1, or 10A.121.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (c), this prima facie determination is made by a single Board member and not by any vote of the entire Board. Based on the above analysis, the Vice Chair concludes that the complaint does not state a prima facie violation of Chapter 10A or of those sections of Chapter 211B under the Board's jurisdiction. The complaint is dismissed without prejudice.

  
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George W. Soule, Vice Chair  
Campaign Finance and Public Disclosure Board

Date: November 4, 2022

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

**PRIMA FACIE  
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF CHANTAL OECHSLE REGARDING THE BERNIE (PERRYMAN)  
FOR HOUSE COMMITTEE

On September 14, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Chantal Oechsle regarding the Bernie (Perryman) for House committee. Bernie (Perryman) for House is the principal campaign committee of Bernadette Perryman, a candidate for Minnesota House of Representatives District 14A.

The complaint alleges that the Perryman committee ran radio advertisements without providing a transcript of the advertisements on the committee's website in violation of Minnesota Statutes section 10A.38. The complaint alleges that the Perryman committee has been running radio advertisements since at least July 16, 2022, on 99.1 FM.

**Determination**

Minnesota Statutes section 10A.38 states that “[a] campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's website a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so.” Per Minnesota Statutes section 10A.38, paragraph (a), this requirement applies only to candidates who have signed a public subsidy agreement with the Board. Board records show that Bernadette Perryman has not signed and filed a public subsidy agreement with the Board for the 2021-2022 election segment. The complaint therefore does not state a prima facie violation of Minnesota Statutes section 10A.38.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (c), this prima facie determination is made by a single Board member and not by any vote of the entire Board. Based on the above analysis, the Chair concludes that the complaint does not state a prima facie violation of Minnesota Statutes section 10A.38. The complaint is dismissed without prejudice.



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Faris Rashid, Chair  
Campaign Finance and Public Disclosure Board

Date: 9/29/2022

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD  
November 2022**

**ACTIVE FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Ashley Martinez- Perez, Candidate	Ashley Martinez- Perez for MN House	2020 pre-general report of receipts and expenditures due 10/26/20, filed 10/28/20  2020 year end report of receipts and expenditures due 1/31/22, not filed	\$100 LFF  \$1,000 LFF	6/13/22	8/12/22			

**CLOSED FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Jae Hyun Shim		Statement of Economic Interest due 1/25/2021	\$100 LFF \$1,000CP	9/7/21	2/9/22	11/1/22	11/3/2022	Closed