

**MINNESOTA CAMPAIGN FINANCE
AND PUBLIC DISCLOSURE BOARD**

In the Matter of the (Thomas) Emmer
for State Representative Committee,
Registration No. 16088

CONCILIATION AGREEMENT

This Conciliation Agreement is entered into between the Campaign Finance and Public Disclosure Board ("the Board"), and the (Thomas) Emmer for State Representative Committee ("the Emmer Committee" or "the Committee"), a principal campaign committee registered with the Campaign Board, and Thomas Emmer, the candidate for whom the Emmer Committee is registered.

Background

Susan Rego filed a complaint ("the Rego Complaint") regarding the Emmer Committee on March 26, 2009. The Rego Complaint asserted, among other things, that a billboard sign placed on Interstate Highway 94 during the 2006 election cycle advocating the candidacy of Representative Tom Emmer was not reported by any entity or individual reporting to the Board. Under Minnesota Statutes, an expenditure of more than \$100 must be reported to the Board either as an independent expenditure by the individual or entity making the expenditure or as a contribution to the affected candidate if the expenditure was not an independent expenditure.

The Board conducted an investigation of the Rego Complaint. The Board considered evidence that the expenditure for the billboard sign was made with the express or implied consent of an agent of the Emmer Committee and evidence bearing on the value of the billboard sign.

Based on the evidence, the Board found that there was reason to believe that a contribution resulted from the transactions and that the amount of the contribution exceeded the limit applicable to contributions from an individual and may have exceeded the aggregate limit on contributions from lobbyists, political committees or funds and donors of large contributions. A finding of reason to believe that a violation may have occurred is preliminary to, and does not constitute, a finding of probable cause that a violation did, in fact occur.

The Board found that there was no probable cause to believe that the Emmer Committee intentionally excluded the transaction from its 2006 Report of Receipts and Expenditures.

When the Board finds reason to believe that a committee has exceeded a contribution limit, Minnesota statutes require a period of conciliation wherein the parties attempt to negotiate a resolution of the matter and enter into a conciliation agreement. In the Order resulting from the Rego complaint, the Board directed its Executive Director to enter into negotiations with the Emmer Committee in an effort to resolve this matter by entry into a conciliation agreement.

By letter of July 10, 2009, Representative Emmer was invited to meet with Board staff to attempt to develop a conciliation agreement for offer to the Board. Due to scheduling conflicts, Representative Emmer was unable to meet with Board staff during the usual 14 day conciliation

period, but expressed a desire to schedule a meeting. Representative Emmer met with Board staff on July 30, 2009, at which time he reviewed a draft agreement prepared by Board staff and consented to it with a change in the amount of the civil penalty.

The Board considered the proposed conciliation agreement in executive session at its meeting of August 4, 2009, which was the first time the Board had seen the agreement. The Board adopted several changes to the agreement and directed the Executive Director to submit it to Representative Emmer for his consideration.

Representative Emmer did not wish to accept the new language submitted to the Board and further objected to other terms of the agreement. Representative Emmer conveyed his general objections to Board staff and they were considered when preparing a revised draft agreement to be reviewed by the Board at its meeting of September 1, 2009.

The Board considered this Conciliation Agreement in executive session at its meeting of September 1, 2009, accepted its terms, and directed the Executive Director to offer the agreement to Representative Emmer.

Agreement

WHEREAS, after investigation of a complaint filed by Susan Rego regarding the reporting of costs of billboard signs advocating the election of Representative Tom Emmer and displayed during the 2006 election season, the Campaign Finance and Public Disclosure Board found reason to believe that the Emmer Committee accepted contributions in excess of applicable limits, which would result in violation of the limits provisions of Chapter 10A, and

WHEREAS, pursuant to Minnesota Statutes, Section 10A.28, the Board is required to offer to conciliate and resolve by agreement violations of related to contribution and spending limits,

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. Mr. Keith Franklin testified that prior to producing and displaying a billboard sign in 2006 advocating the election of Representative Tom Emmer he had a conversation with Drew Emmer, a member of the Emmer Committee.
2. Mr. Franklin came away from the conversation with the understanding that Drew Emmer approved of his proposed billboard expenditures although the Emmer Committee would not be able to pay for the sign.
3. Neither Drew Emmer nor any other member of the Emmer Committee have specific recollection of the conversation related by Mr. Franklin.
4. The Emmer Committee understands that if express or implied consent is given to an individual proposing to make an expenditure to benefit a principal campaign committee, that expenditure becomes an approved expenditure, which constitutes an in-kind contribution to the committee and results in a corresponding in-kind expenditure.
5. The Committee denies that it intended to either expressly or impliedly authorize or approve Mr. Franklin's proposed expenditure. The Committee further denies that it understood that a conversation such as the one described by Keith Franklin between

himself and Drew Emmer would convert the subsequent expenditure by Mr. Franklin into a reportable contribution.

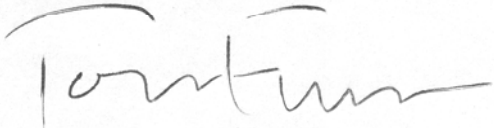
6. The Committee acknowledges, but disagrees with, the Board's finding reason to believe that the conversation with Keith Franklin and his subsequent expenditure resulted in a contribution to the Committee that, if proven, would result in violations of the contribution limits provisions of Chapter 10A.
7. The Committee's disagreement with the Board in this matter notwithstanding, the Committee wishes to resolve this matter by conciliation and agreement.
8. To resolve this matter, and without admission of a violation, the Emmer Committee agrees to pay a civil penalty of \$750 by check payable to the State of Minnesota for deposit in the General Fund of the State.
9. The Emmer Committee will forward its check in the amount of \$750 to the Campaign Finance and Public Disclosure Board within 30 days of the Committee's acceptance of this Agreement.
10. The Committee will advise all of its members and officers of the fact that discussions with an individual or entity that proposes making independent expenditures to benefit the Committee or its candidate will, in most cases, convert a potentially independent expenditure into a contribution transaction.
11. This Conciliation Agreement shall be a bar to any civil proceeding under Minn. Stat. § 10A.28, subds. 3 and 4.
12. The agreements of the Emmer Committee and Representative Tom Emmer in this Conciliation Agreement are not an admission of a violation and it is agreed by the parties that this Agreement is a compromise of disputed claims.
13. Upon execution of this Agreement by all parties hereto, this Conciliation Agreement shall become a matter of public record, and the statutory requirements of confidentiality shall no longer apply to the investigation of this matter.

Campaign Finance and Public Disclosure Board



Bob Milbert, Vice Chair

Dated: 9/1/09



Tom Emmer

Dated: Sept 14, 2009