

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

**Findings in the Matter of the Complaint of Common Cause Minnesota  
and the Board's Investigation of State Fund for Economic Growth**

**Procedural Background**

On September 30, 2010, Common Cause Minnesota ("Complainant") filed three complaints with the Campaign Finance and Public Disclosure Board ("the Board") regarding actions of the Republican Governors Association ("the RGA"), Minnesota Future, LLC, a Minnesota corporation, and Minnesota's Future, a political committee registered with the Board.

The complaints described a contribution from the RGA to Minnesota Future, LLC, which was then given to Minnesota's Future political committee. The complaints alleged that Minnesota Future, LLC was a "political committee" as defined in Minnesota Statutes, although Minnesota Future, LLC, was not registered as a political committee with the Board.

Complainant alleged that Minnesota Future, LLC, failed to register in violation of Minnesota Statutes Section 10A.14. Complainant further alleged that Minnesota Future, LLC, as a political committee, was required to obtain statutorily required disclosure of the underlying sources of the money it received from the RGA. Complainant also alleged that Minnesota Future, LLC, failed to comply with the reporting requirements applicable to political committees under Chapter 10A, the Campaign Finance and Public Disclosure Act. Finally, Complainant alleged that the series of financial transactions was constructed in a manner intended to circumvent the requirements of Chapter 10A in violation of Minnesota Statutes Section 10A.29.

The complaints were reviewed by the Board at its meeting of October 5, 2010. At that meeting the Executive Director advised the Board that staff had been reviewing corporate participation in the making of independent expenditures. Staff had identified two corporations that were registered with the Internal Revenue Service as tax exempt political organizations under Internal Revenue Code section 527. Each of these corporations, Minnesota Future, LLC, (a subject of the complaint) and State Fund for Economic Growth, appeared to limit its activities to raising and spending money for independent expenditures. As a result of the staff research, the Board expanded its investigation to include the corporation State Fund for Economic Growth.

The Board reviewed the matter again at its meeting of November 1, 2010, and laid the matter over to allow more time for staff to complete its investigation and analysis.

**Status as a Political Committee**

Under Minnesota Statutes Section 10A.01, subd. 27, an association whose major purpose is "to influence the nomination or election of a candidate or to promote or defeat a ballot question" is a "political committee". A political committee is required to register with and report periodically to the Board on all of its financial activity.

The activities that are examined when determining whether an association's major purpose is influencing the nomination or election of candidates are: (1) making direct contributions to candidates, party units, or political committees or funds, (2) making approved expenditures on

behalf of candidates<sup>1</sup>, or (3) making independent expenditures<sup>2</sup>. In addition to these factors, the association's own statements concerning its purpose may be taken into consideration.

### **Minnesota Future, LLC**

Minnesota Future, LLC, filed its corporate registration with the Minnesota Secretary of State on August 11, 2010. It also registered with the Internal Revenue Service ("IRS") under Internal Revenue Code ("IRC") Section 527 as a political organization. According to its articles of incorporation, the purpose of Minnesota Future LLC is:

"to accept contributions and make independent expenditures to directly and indirectly influence the selection, nomination, election, or appointment of any individual to public office, together with related purposes implied therefrom."

According to its registration statement filed with the IRS on August 13, 2010, the purpose of Minnesota Future, LLC, was to "accept contributions and make expenditures to directly or indirectly influence elections."

From filed reports it is clear that Minnesota Future, LLC, accepted \$428,000 from the Republican Governors Association, another political organization registered with the IRS under IRC Section 527, and at least \$1,500 from Jeff Larson, an individual. These sources of Minnesota Future, LLC's funding were disclosed by Minnesota Future, LLC, when it donated \$428,000 to Minnesota's Future, the political committee, between August 25 and September 14, 2010.

Minnesota Future, LLC, did not (and does not) have its own Worldwide Web site. Filed reports and other records disclosed no activity of the corporation in 2010 other than raising money to use for independent expenditures.

In an affidavit submitted during the course of this investigation, Jeff Larson, sole member and governor of Minnesota Future, LLC, stated that the corporation was formed "to allow me to participate in issues of public policy as well as to engage in activities which may independently influence the nomination, selection, or appointment of various individuals to various levels of public office."

Mr. Larson indicates that on advice of counsel, he did not believe that Minnesota Future, LLC, was required to register with and report to the Board.

After discussing the matter with Board staff, Mr. Larson registered Minnesota Future, LLC, as a political committee and filed reports retroactive to the date that the corporation first accepted contributions of more than \$100 to influence elections.

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<sup>1</sup> An "approved expenditure" is a form of contribution to a candidate in which the candidate approves an expenditure to be made by the donor to a third party for the benefit of the candidate.

<sup>2</sup> An independent expenditure is an expenditure expressly advocating the election or defeat of a clearly identified 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.

The evidence that Minnesota Future LLC's activities were limited to raising and donating money for the purpose of making independent expenditures supports a finding of probable cause that the major purpose of Minnesota Future, LLC, is to influence the nomination or election of candidates and, thus, that it is a political committee.

### **State Fund for Economic Growth**

State Fund for Economic Growth filed its corporate registration with the Minnesota Secretary of State on June 29, 2010. It also registered with the IRS as an IRC Section 527 political organization.

In its corporate articles filed with the Minnesota Secretary of State, State Fund For Economic Growth lists its purpose as:

“to accept contributions and make independent expenditures to directly or indirectly influence the selection, nomination, election or appointment of any individual to public office, together with related purposes therefrom.”

In its Section 527 registration, State Fund for Economic Growth stated as its purpose:

“The organization will accept contributions and make independent expenditures to directly or indirectly influence the selection, nomination, election or appointment of individuals to public office.”

From filed reports it was clear that State Fund for Economic Growth had accepted \$100,000 from Twin City Federal. This donation to State Fund for Economic Growth was disclosed on the statement of underlying sources provided when State Fund for Economic Growth gave this money on August 12, 2010, to MN Forward, a political committee registered with the Board.

State Fund for Economic Growth did not (and does not) have its own Worldwide Web site. The Board's investigation disclosed only limited activity of the corporation other than raising money to influence elections in Minnesota in 2010<sup>3</sup>.

In an affidavit submitted during the course of this investigation, Greg Pulles, a governor and the treasurer of State Fund for Economic Growth, stated that the corporation was formed “to allow Twin City Federal Financial Corporation to participate in issues of public policy as well as to engage in activities which may independently influence the nomination, selection, or appointment of various individuals to various levels of public office.”

Mr. Pulles indicates that on advice of counsel, State Fund for Economic Growth believed that it was not required to register with and report to the Board.

After notice of the Board's investigation and legal counsel for the corporation having discussed this matter with Board staff, Mr. Pulles registered State Fund for Economic Growth as a political committee and filed reports retroactive to the date that the corporation first accepted contributions of more than \$100 to influence elections.

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<sup>3</sup> After it registered as a political committee, State Fund for Economic Growth reported a contribution of \$50,000 to a nonprofit corporation. The contribution represented 33.3% of State Fund for Economic Growth's spending at the time of that report. A subsequent report shows that the donation to the nonprofit represents 20% of State Fund for Economic Growth's spending, with the remaining 80% being given to independent expenditure political committees.

The evidence that State Fund for Economic Growth's activities were almost entirely limited to raising and donating money for the purpose of making independent expenditures supports a finding of probable cause that the major purpose of State Fund for Economic Growth is to influence the nomination or election of candidates and, thus, that it is a political committee.

### **Circumvention of Minnesota Statutes Chapter 10A.**

An independent expenditure political committee that accepts money from an association not registered with the Board is required to obtain from its donor a statement of the sources of money the donor used to make the contribution.<sup>4</sup> Since Minnesota Future, LLC did not consider itself to be a political committee, it did not obtain a statement of underlying sources from the RGA.

The thrust of the complaint is that by not registering as a political committee, Minnesota Future, LLC, circumvented the disclosure requirements applicable to the \$428,000 it received from the RGA.

Minnesota Statutes, Section 10A.29 prohibits circumvention of Chapter 10A. Specifically the statute states:

“An individual or association that attempts to circumvent this chapter by redirecting a contribution through, or making a contribution on behalf of, another individual or association is guilty of a gross misdemeanor and subject to a civil penalty imposed by the board of up to \$3,000.”

The complaint alleged that:

“Had the RGA contributed funds directly to the Minnesota's Future political committee, rather than funneling its contribution through Minnesota Future, LLC, then the RGA would have had to file the disclosure statement required under Minn. Stat. §10A.27, subd. 15. Among other things, the RGA would have had to disclose the original sources of the contributed funds.”

The RGA submitted an affidavit of legal counsel in this matter explaining its efforts to understand and comply with Minnesota's new independent expenditure laws. The RGA states that it also examined reports where other associations had donated to corporations that used the money to make independent expenditures. It conferred with legal counsel and consulted Board staff and concluded that the transaction with Minnesota Future, LLC, was legal in all respects and was no different than other reported transactions that seemed to be similar to those contemplated by the RGA.

What was not clear to the RGA at the time is that the corporation to which it was donating should have been registered as a political committee under Minnesota law and, as a result, the RGA should have provided underlying disclosure of its sources.

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<sup>4</sup> There is an threshold trigger of \$5,000 for requiring underlying source disclosure. The amount donated to Minnesota Future, LLC, by the RGA exceeded that threshold. Minn. Stat. §10A.27, subd. 15.

The Board notes that the RGA disclosed all of its sources of income to the IRS under the requirements applicable to organizations registered under IRC section 527. The timing of that disclosure is different than what is required in Minnesota but the level of itemization is greater than Minnesota requires. This observation is noted because it suggests that avoidance of disclosure was not a motive for the RGA when it made its contribution to Minnesota Future, LLC.

With respect to State Fund for Economic Growth, no further disclosure of the sources of the contribution from Twin City Federal was required because the contribution was made from the business revenue of Twin City Federal.

The evidence in this matter is not sufficient to support a finding of probable cause that the transactions under examination were structured for the purpose of circumventing the disclosure requirements of Chapter 10A.

### **Board Footnote**

The complaint in this matter is primarily about disclosure. While the Board does not find probable cause to believe that the Respondents circumvented the law in this case in order to avoid disclosure, it recognizes the very real potential for such violations by structuring donations to pass through multiple associations.

The Board notes the potential for circumvention of the disclosure requirements is equally real with associations that are not political committees. These may include unincorporated associations, for-profit and nonprofit corporations, trade associations, and unions.

The Board will continue to monitor the mechanisms used to move money through the campaign finance system. In particular, the Board will monitor the use of multi-tier transactions that may lead to less disclosure than required by law or that may be used for the purpose of circumventing disclosure requirements.

**Based on the above analysis, and the submissions of the Complainant and the other parties, the Board makes the following:**

### **Findings Concerning Probable Cause**

1. There is probable cause to believe that Minnesota Future, LLC, and State Fund for Economic Growth, both Minnesota corporations, operated as political committees as defined by statute and were required to register with the Board within ten days of accepting contributions or making expenditures in excess of \$100.
2. There is no probable cause to believe that the failure of Minnesota Future, LLC, or State Fund For Economic Growth to register was done with the knowledge and understanding the corporation was, in fact, required to register.
3. Minnesota Future, LLC, and State Fund for Economic Growth have registered with and reported to the Board retroactive to the date they first accepted contributions in excess of \$100. They have completed their registration and reporting obligations. Consequently, there is no probable cause to believe that an ongoing violation exists.



Relevant Statutes

**10A.01 DEFINITIONS**

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Subd. 4. **Approved expenditure.** "Approved expenditure" means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the 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, the candidate's principal campaign committee, or the candidate's agent. An approved expenditure is a contribution to that candidate.

. . .

Subd. 18. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified 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. An independent expenditure is not a contribution to that candidate. An independent expenditure does not include the act of announcing a formal public endorsement of a candidate for public office, unless the act is simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure under this subdivision.

. . .

Subd. 27. **Political committee.** "Political committee" means an association whose major purpose is to influence the nomination or election of a candidate or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

**10A.14 REGISTRATION.**

Subdivision 1. **First registration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must register with the board by filing a statement of organization no later than 14 days after the committee, fund, or party unit has made a contribution, received contributions, or made expenditures in excess of \$100, or by the end of the next business day after it has received a loan or contribution that must be reported under section 10A.20, subdivision 5, whichever is earlier.