

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

**Findings and Order in the Matter of a Contribution Made by Michael McGovern to
the People for (Gregory) Davids Committee**

Summary of the Facts

Minnesota Statutes section 10A.15, subdivision 5, prohibits a lobbyist registered with the Campaign Finance and Public Disclosure Board from making a contribution to a candidate without providing the lobbyist's name and registration number. A lobbyist who violates this section is subject to a civil penalty imposed by the Board of up to \$1,000. This statutory provision exists to ensure that candidates may accurately identify the source of the contribution and thereby apply the amount of the contribution against the appropriate aggregate special source contribution limit. The aggregate special source limit is the total amount that a candidate may accept from political committees or funds, lobbyists, and large donors.

The 2012 pre-primary-election Report of Receipts and Expenditures filed with the Board by the People for (Gregory) Davids Committee (the Committee) reported receiving a \$250 contribution from Michael McGovern. The contribution was reported as a donation from an individual. After notification from Board staff that the contribution may have been from a similarly named lobbyist, the Committee researched the contribution and then filed an amended Report of Receipts and Expenditures. The amended report listed the contribution as coming from Michael McGovern on January 23, 2012, who was a registered lobbyist on the date of the contribution.

After reclassifying the contribution, the Committee received \$7,150 in special source contributions, which exceeded by \$250 the applicable aggregate special source limit of \$6,900 for a state representative candidate.

Minnesota Statutes section 10A.15, subdivision 3, allows a candidate to return a contribution within 60 days of deposit to clear a limits violation. On August 16, 2012, the Committee returned \$250 to Mr. McGovern, but the return was not it was within the 60 day period. The Committee also returned \$150 to a political fund, which was within 60 days of deposit, thereby reducing the amount of accepted contributions from special sources to \$7,000. Copies of the checks used to return the contributions were provided to the Board. As a result, the People for (Gregory) Davids Committee exceeded the aggregate special source limit in 2012 by \$100.

In a letter dated August 16, 2012, Reid LeBeau II, counsel for the Committee, states that the contribution from Mr. McGovern was made by check that did not provide a lobbyist registration number. Mr. LeBeau provided a copy of the check from Mr. McGovern to the Committee with his response. In addition, the address on the check was not the same as the address in the Board's lobbyist database for Michael McGovern.

In response to a Board inquiry, Mr. McGovern states that he registered as a lobbyist in 1998 because his position as president of an association may have included activities that would have qualified him as a lobbyist. Mr. McGovern further states that in 2012 he learned that the definition of a lobbyist had changed since 1998, and that his activities would no longer fall under that definition. Mr. McGovern believes that he was not a

lobbyist when he made the contribution to the Committee. However, Mr. McGovern did not terminate his lobbyist registration until August 22, 2012.

This matter was considered by the Board in executive session on September 13, 2012. The Board's decision is based on the correspondence from Mr. LeBeau and Mr. McGovern and on Board records.

Based on the above Summary of the Facts and Relevant Statutes, the Board makes the following:

Findings Concerning Probable Cause

1. There is probable cause to believe that Michael McGovern violated Minnesota Statutes section 10A.15, subdivision 5, by contributing \$250 to the People for (Gregory) Davids Committee without providing his lobbyist registration number with the contribution.
2. There is probable cause to believe that because there was no registration number to identify the donor as a lobbyist the People for (Gregory) Davids Committee accepted the donation with the belief that the contribution was from an individual, and not from a registered lobbyist.
3. There is probable cause to believe that the People for (Gregory) Davids Committee has returned \$250 to Michael McGovern, thereby removing the excess contribution from its account.
4. There is no probable cause to believe that the violations were intentional or done with the intent to circumvent the requirements of Minnesota Statutes Chapter 10A.

Based on the above Findings, the Board issues the following:

Order

1. The Board imposes no civil penalty on the People for (Gregory) Davids Committee for exceeding the 2012 aggregate contribution limit from special source contributors.
2. The Board imposes a civil penalty of \$250, which is one times the amount of the contribution, on Michael McGovern for failure to provide a registration number with the contribution.
3. Michael McGovern is directed to forward to the Board payment of the \$250 civil penalty, by check or money order payable to the State of Minnesota, within 30 days of receipt of this order.
4. If Michael McGovern does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action for the remedies available under Minnesota Statutes section 10A.34.

5. The Board investigation of this matter is entered into the public record in accordance with Minnesota Statutes section 10A.02, subdivision 11, and upon payment by Michael McGovern of the civil penalty imposed herein, the matter is concluded.

Dated: September 13, 2012

/s/ Greg McCullough
Greg McCullough, Chair
Campaign Finance and Public Disclosure Board

Relevant Statute

Minnesota Statutes section 10A.15, subdivision 5. **Registration number on checks.** A contribution made to a candidate by a lobbyist, political committee, political fund, or party unit must show the name of the lobbyist, political committee, political fund, or party unit and the number under which it is registered with the board.