

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

**Findings and Order in the Matter of the Complaint of Common Cause Minnesota  
regarding the National Organization for Marriage and Minnesota for Marriage**

On July 11, 2012, the Campaign Finance and Public Disclosure Board received a complaint from Common Cause Minnesota (CCM) signed by Mike Dean, its Executive Director, regarding the National Organization for Marriage (NOM) Minnesota Marriage Fund. This complaint alleges that Minnesota for Marriage (MFM) reported receiving a contribution from the NOM Fund on its 56-day pre-primary report of receipts and expenditures while the NOM Fund did not report giving a contribution to MFM on its report. The complaint asserts that the NOM Fund's omission was intentional and that the NOM Fund therefore should be penalized for filing a false report with the Board.

The complaint also alleges that the NOM Fund failed to report the source of the \$15,000 contribution that it made to MFM. The complaint asserts that this money came from an association that was not registered with the Board and that the contributor therefore was required to disclose the source of the funds used to make the contribution. The complaint maintains that the NOM Fund should be penalized for failing to include this underlying source disclosure with its 56-day report.

The complaint also provides evidence that the NOM website asked for donations to MFM and that NOM also sent out email solicitations asking for donations to MFM. The complaint claims that these website and email solicitations constitute in-kind contributions from NOM to MFM that were not reported on MFM's 56-day pre-primary report.

MFM submitted its 56-day pre-primary report on June 19, 2012. On this report, MFM listed a \$15,000 contribution from the NOM Fund. The NOM Fund report did not list a contribution to MFM. Shortly after MFM filed its report, the discrepancy between that report and the NOM Fund report was noted by Mike Dean of CCM who advised Gary Goldsmith, the Board's Executive Director, of the matter. Discrepancies such as the one noted by Mr. Dean are routinely examined by Board staff through a process of reconciliation of reports filed by donors and recipients. This examination takes place at the time the Board is notified of such a discrepancy or at the end of the year during a computer assisted reconciliation, whichever comes first. Because these matters are handled routinely by the Board, they are not typically handled through the complaint process. In this matter, Mr. Goldsmith, consistent with the handling of report discrepancies, notified MFM and the NOM Fund of the discrepancy and advised them to amend their reports to correct the apparent error.

On July 6, 2012, before the complaint was filed with the Board, MFM submitted an amended report. In the amended report, MFM stated that it had incorrectly reported the source of the \$15,000 contribution and that this contribution actually had been made by NOM, the corporation, not the NOM Fund. NOM is not registered with the Board. NOM submitted a statement with its contribution to MFM certifying that none of the sources of funds used to make the contribution had given more than \$1,000 to NOM and, therefore, itemization of underlying donations was not required for this contribution. MFM included the statement from NOM with the amended report.

Subsequently the CCM complaint was filed. Because the complaint included allegations beyond the reconciliation matter, it was accepted for investigation. On August 14, 2012, the

Board sent letters to MFM and NOM asking them to provide information about the NOM webpage and email solicitations. On August 20, 2012, MFM submitted an amended report listing the website and email solicitations provided through July 23, 2012, as in-kind contributions from NOM to MFM. These services were valued at their cost, which was \$6,944.78. NOM provided the required underlying disclosure forms to MFM. Both NOM and MFM stated that NOM had been tracking the cost of these contributions but had “inadvertently neglected” to notify MFM so that the value could be reported as in-kind contributions on MFM’s report. Both NOM and MFM stated that NOM had implemented new procedures to ensure that information about any future in-kind contributions would be forwarded timely from NOM to MFM along with the required underlying disclosure forms.

### **Board Analysis**

The first issue raised in the complaint is that MFM reported a contribution from the NOM Fund on its 56-day pre-primary report of receipts and expenditures while the NOM Fund did not report any contribution to MFM on its report.

The purpose of Minnesota Statutes chapter 10A is to promote accurate disclosure of political committee or fund financial transactions so that the public can know how that committee or fund is raising and spending its money. To further this goal, Minnesota Statutes section 10A.20, subdivision 3, requires political committees and funds to disclose on their campaign finance reports the names and addresses of anyone who contributed more than \$100 to the committee or fund.

In the present case, MFM incorrectly reported that the NOM Fund was the source of the \$15,000 contribution when NOM actually had made this contribution. There is no evidence showing that this mistake was intentional. Consequently, the record here supports a finding that MFM inadvertently violated the campaign finance reporting requirements by misidentifying the source of a contribution.

A political committee or fund can remedy an error or omission in a report filed with the Board without penalty if the correction is made promptly as provided in Minnesota Statutes section 10A.025, subdivision 4. Here, before the complaint was filed, MFM promptly amended its report to show that NOM was the true source of the \$15,000 contribution. Further, MFM submitted the underlying disclosure provided by NOM with the amendment. Consequently, MFM has remedied the first reporting error.

The next issue raised in the complaint is that MFM failed to report NOM’s website and email solicitations for donations to MFM as in-kind contributions to MFM. Chapter 10A defines an in-kind contribution as “anything of value that is given [to a committee or fund], other than money or negotiable instruments.” Minnesota Statutes section 10A.20, subdivision 3, requires a political committee or fund to report in-kind contributions at their fair market value.

Here, NOM created a webpage that solicited donations for MFM and sent email solicitations seeking donations for MFM. MFM, however, failed to report these in-kind contributions on its 56-day pre-primary report. Again, there is no evidence showing that this omission was intentional. Consequently, the record here supports a finding that MFM inadvertently filed an incomplete report of the committee’s financial activities.

The record also shows, however, that after being notified of the omission by the Board, MFM promptly amended its report to include the in-kind contributions provided through the date of the

most recent report. MFM properly used the actual cost of the webpage and email solicitations to value these contributions because, in this case, that cost is reflective of the fair market value of the donations. MFM also included the underlying disclosure submitted by NOM with its amendment. Consequently, MFM has remedied this reporting violation.

### **Findings Concerning Probable Cause**

Based on the record in this matter, the Board makes the following findings:

1. There is probable cause to find that Minnesota for Marriage inadvertently misidentified the source of a \$15,000 contribution on its 56-day pre-primary report.
2. There is probable cause to find that Minnesota for Marriage inadvertently omitted \$6,944.78 of in-kind contributions from the National Organization for Marriage on its 56-day pre-primary report.
3. Minnesota for Marriage has remedied both reporting violations by submitting amended reports identifying the National Organization for Marriage as the true source of the \$15,000 contribution and as the source of the \$6,944.78 of in-kind contributions. The required underlying disclosure was submitted with the amended report.

### **Order**

Based on the above finding, the Board issues the following order:

The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11.

Dated: September 13, 2012

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

### Relevant statutes

**Minn. Stat. § 10A.01, subd. 13. Donation in-kind.** “Donation in-kind” means anything of value that is given, other than money or negotiable instruments. An approved expenditure is a donation in-kind.

**Minn. Stat. § 10A.025, subd. 4. Changes and corrections.** Material changes in information previously submitted and corrections to a report or statement must be reported in writing to the board within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy. The change or correction must identify the form and the paragraph containing the information to be changed or corrected

**Minn. Stat. § 10A.20, subd. 3. Contents of report. . . . .**

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.