

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

**PROBABLE CAUSE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF THE MINNESOTA JOBS COALITION REGARDING GARY SCHINDLER, SCHINDLER (GARY) FOR HOUSE, ROBIN BROWN, ROBIN BROWN FOR MINNESOTA, AND WEDGEWOOD PERUVIAN PASOS

On August 25, 2016, the Campaign Finance and Public Disclosure Board received a complaint submitted by Kevin Magnuson on behalf of the Minnesota Jobs Coalition regarding Gary Schindler, Schindler (Gary) for House, Robin Brown, Robin Brown for Minnesota, and Wedgewood Peruvian Pasos. The Schindler (Gary) for House committee is the principal campaign committee of Gary Schindler for the seat in the house of representatives for district 27A. The Robin Brown for Minnesota committee is the now-terminated principal campaign committee of Robin Brown for the seat in the house of representatives for district 27A.

The complaint alleges the following violations:

1. Robin Brown wrote a check from Wedgewood Peruvian Pasos, a business that she owns and operates, that was reported as a contribution from the Robin Brown for Minnesota committee to the Schindler for House committee. If the funds were from the Robin Brown for Minnesota committee, then those funds had been commingled with other funds in violation of Minnesota Statutes section 10A.11, subdivision 5;
2. The contribution from Wedgewood Peruvian Pasos to the Schindler for House Committee was a prohibited corporate contribution in violation of Minnesota Statutes section 211B.15, subdivision 2; and
3. The Robin Brown for Minnesota and Schindler for House committees, and their respective candidates, filed false campaign finance reports by listing the contribution as being from Robin Brown for Minnesota when it was instead made by Wedgewood Peruvian Pasos, in violation of Minnesota Statutes section 10A.025, subdivision 2.

On August 29, 2016, the chair made a determination that the complaint and its attachments stated a prima facie violation of the commingling, corporate contribution, and false campaign finance reports provisions. On August 29, 2016, the Board received a response from the Brown committee. On September 22, 2016, Gary Schindler also submitted a response for consideration at this hearing.

Analysis

The response submitted by the Brown committee stated the following: (1) Wedgewood Peruvian Pasos has never been an incorporated business; (2) the Brown committee's campaign funds were placed into the bank account of "Wedgewood Peruvian Pasos; Robin K Brown or Joseph Brown," an account for horse-related expenditures, when the candidate and her husband (who was treasurer to the committee) closed the campaign account to combine three separate

accounts into two accounts; and (3) the check from the Wedgewood account to the Schindler committee was for exactly the remaining funds of the campaign and a contribution from the Brown committee, which was terminating.

Minnesota Statutes section 10A.11, subdivision 5, states that a “principal campaign committee . . . may not commingle its funds with personal funds of officers, members, or associates of the committee.” Ms. Brown and her husband have admitted to commingling the committee’s funds with their own personal funds by placing the remaining campaign funds into a personal account used for horse-related expenditures. For that reason, there is probable cause to believe that a violation of the commingling prohibition has occurred.

Minnesota Statutes section 211B.15 prohibits a corporation or limited liability company from making a contribution to a candidate’s committee. The section also prohibits a candidate’s committee from accepting a contribution made from one of these types of entities. The Browns state that Wedgewood Peruvian Pasos was never incorporated and that the checking account was simply an account for horse-related expenditures. A review of the Secretary of State’s online business filings produces no records regarding a corporation or limited liability company with the name of Wedgewood Peruvian Pasos or any similar name. Therefore, no probable cause exists to believe that either committee or Wedgewood Peruvian Pasos violated the corporate contribution prohibition of Minnesota Statutes section 211B.15.

Finally, Minnesota Statutes section 10A.025, subdivision 2, states that “an individual shall not sign and certify to be true a report or statement knowing it contains false information or knowing it omits required information.” The complaint states that the respondents violated this provision by filing reports listing the subject contribution as having been made by Robin Brown for Minnesota, instead of Wedgewood Peruvian Pasos.

Ordinarily, a contribution is considered to have been made from the account on which the funds were drawn. The Board does not stray from this presumption lightly. However, in this case there is documentary evidence demonstrating that the funds were actually those of Robin Brown for Minnesota, and therefore reported correctly.

In fact, the complainant submitted evidence that corroborates this conclusion. Exhibit A to the complaint is a video of Ms. Brown presenting Mr. Schindler with the check at his endorsing convention. In the video, Ms. Brown states that she is “turning over [her] account, Robin Brown for Minnesota, in the balance of \$2,896.56 to [Mr. Schindler] today.” Exhibit B to the complaint includes a copy of the check provided to Mr. Schindler that day. While it is drawn from the account of “Wedgewood Peruvian Pasos; Robin K Brown or Joseph Brown,” a closer inspection reveals that the memo line states “Robin Brown for Minn.”

The Schindler committee, in its response, provided additional documentary evidence to support the conclusion that the contribution was correctly reported as having been made by the Brown committee. Mr. Schindler states that he knew the Brown committee had terminated and that he had the understanding at the time he took possession of the check that the funds were left over from the campaign. He includes two documents to support this assertion. The first is the

minutes from the endorsing convention, which note that “Robin Brown gave a check for \$2896.56 to Gary Schindler from her campaign.” The second is a Statement of Intent to Terminate that was provided to him with the contribution. This statement must be provided if a candidate’s committee makes a contribution to another candidate’s committee. The statement would be irrelevant if it was provided with a contribution from an entity other than a candidate’s committee.

With this in mind, the Board concludes that the contribution, although routed through the Browns’ Wedgewood account, actually consisted of the remaining funds of the Brown committee and therefore was properly reported by both committees as such. For these reasons, no probable cause exists to believe that either committee violated the false reporting provision of Minnesota Statutes section 10A.025, subdivision 2.

Order

1. The allegation that the contribution from Wedgewood Peruvian Pasos was a corporate contribution in violation of Minnesota Statutes section 211B.15, subdivision 2, is dismissed for lack of probable cause.
2. The allegation that the committees, and their respective candidates, filed false campaign finance reports in violation of Minnesota Statutes section 10A.025, subdivision 2, is dismissed for lack of probable cause.
3. There is probable cause to believe that Robin Brown for Minnesota commingled committee funds in violation of Minnesota Statutes section 10A.11, subdivision 5. An investigation is ordered for the purpose of preparing this matter for final decision at the Board's next meeting.

/s/ Daniel Rosen
Daniel N. Rosen, Chair
Campaign Finance and Public Disclosure Board

Date: October 5, 2016