

**State of Minnesota
Campaign Finance and Public Disclosure Board**

Findings, Conclusions, and Order in the Matter of the Staff Review of the Branden (Petersen) for Senate committee

The Branden (Petersen) for Senate committee is the principal campaign committee of former Senator Branden Petersen. The committee did not file its 2014 year-end report of receipts and expenditures until September 23, 2015. Around this date, Sen. Petersen contacted the executive director and had several telephone discussions with him about the report's accuracy and the \$6,000 in noncampaign reimbursements that the committee had reported making to him in 2014.

Sen. Petersen asked to meet with Board staff in person. At the October 19, 2015 meeting, Sen. Petersen told staff that the finances for his current senate committee and his previous house committee were in disarray and that the senate committee had reimbursed him for some expenses for serving in public office that he now knew were not permitted under Chapter 10A. Sen. Petersen asked for the Board's help in reconciling his committees' accounts and determining the amount that he needed to personally repay, including any penalties that might apply. The executive director then initiated this staff review.

Sen. Petersen had very few committee records in his possession. He voluntarily contacted the committees' bank and some of the senate committee's vendors to ask for copies of their records. After some delays, Sen. Petersen was able to obtain records from the bank for his senate and house committees. He also was able to obtain documentation for cell phone and vehicle expense reimbursements that the committees made to him. In addition, Sen. Petersen voluntarily provided an oral statement under oath.

The information provided showed that although there were inaccuracies on the house committee reports, those errors involved reporting mistakes that could be corrected by amendment.

The senate committee's records, however, raised questions about the propriety of some reimbursements that the senate committee had made to Sen. Petersen for expenses for serving in public office, the adequacy of the senate committee's recordkeeping and reporting, and the senate committee's violation of the aggregate special source contribution limit.

Analysis

Reimbursements for expenses for serving in public office

Minnesota Statutes section 211B.12 provides that money collected by campaign committees may be used either for the specific political purposes listed in that section or for the noncampaign disbursements listed in Chapter 10A. One of the noncampaign disbursements listed in Chapter 10A is payment "of the candidate's expenses for serving in public office, other

than for personal uses.” Minn. Stat. § 10A.01, subd. 26 (10). Minnesota Statutes section 211B.12 specifically provides that “[m]oney collected for political purposes . . . may not be converted to personal use.” Any funds converted to personal use must be repaid to the committee or, if the candidate was responsible for the improper use, to the state. Minn. Stat. § 10A.022, subd. 8. The Board also may impose a civil penalty of up to \$3,000 on the person responsible for the conversion to personal use. Minn. Stat. § 10A.34, subd. 4.

The Branden (Petersen) for Senate committee’s bank records show several lump sum payments to Sen. Petersen in the form of checks and cash withdrawals. Sen. Petersen said that these payments were made to periodically reimburse him for costs associated with serving as a legislator. Sen. Petersen believed that it was proper for the committee to reimburse him for “[v]arious items that I believed were qualified reimbursements . . . anywhere from, for mileage to vehicle expenses, communication expenses, assorted things of that nature.”

Sen. Petersen stated:

The logic in my head was such that many employers reimburse for vehicle, reimburse for, you know, cell phone, reimburse for other expenses of that nature, mileage, and so I operated under the assumption that that was the same case.

Sen. Petersen also said that the prevailing attitude in the legislature regarding reimbursements was as follows:

I would say that there was a loose attitude about what could be reimbursed and what couldn’t and that basically if there was any, you know, conceivable reason why it could be related to your legislative or campaign work that it would likely qualify as an expense reimbursement.

Sen. Petersen stated that based on his understanding of the allowable costs of serving in office, the committee reimbursed him for one-half of the cell phone expenses on his family cell phone plan, his vehicle expenses including mileage and family car payments, and other expenses for which he has no records. Sen. Petersen said that he did not learn that there might be questions about the propriety of these reimbursements until he contacted the executive director in the fall of 2015.

In this case, the reimbursements to Sen. Petersen for one-half of the cell phone expenses on his family cell phone plan were proper. The Board has held that the best practice for committees with respect to cell phone use is to have a separate account for the legislator’s phone. Findings in the Matter of the Joe Atkins for State Representative Committee (May 27, 2016); Findings in the Matter of the Joe Hoppe Volunteer Committee (May 27, 2016). If a legislator uses committee funds to pay for a family cell phone plan, the amount paid by the committee must reflect only the use attributable to the legislator. Because the Petersen committee divided the total cost of the family cell phone plan by the two phones covered by the plan, the committee paid only for the use attributable to Sen. Petersen. Consequently, no committee funds were converted to personal use by the cell phone reimbursements.

The reimbursements made to Sen. Petersen for his car payments, however, were not a proper use of the committee's funds. Sen. Petersen submitted calendars showing the date, destination, and purpose of his travel that sufficiently documented the mileage reimbursements made to him for trips related to his service in the legislature. Sen. Petersen stated, however, that the committee also reimbursed him for the entire amount of his monthly car payments. Sen. Petersen acknowledged that the car was his personal vehicle and that it was used by both drivers in his family. Because the vehicle was used for personal travel by Sen. Petersen and his family, the reimbursements made to him for the monthly car payments constituted conversion of committee funds to personal use. The loan records show that the committee reimbursed Sen. Petersen \$2,687.29 for the car payments in 2012 and \$2,581.77 in 2013.

The committee reimbursed Sen. Petersen for an additional \$1,098.20 in expenses in 2012; an additional \$1,354.28 in expenses in 2013; and an additional \$299.09 in expenses in 2014. It is possible that these payments were for legitimate political purposes or costs of serving in office. Neither the committee nor Sen. Petersen, however, have any records explaining the purpose of these payments. Although Sen. Petersen was given the opportunity to obtain documentation for these expenses during the staff review, he was unable to do so. Absent any records showing how these funds were used, the Board must conclude that they were not used for purposes permitted under Minnesota Statutes section 211B.12, and therefore constituted a conversion of committee funds to personal use.

When the improper vehicle reimbursements are added to the undocumented reimbursements, the total amount of committee funds impermissibly converted to personal use in 2012, 2013, and 2014 was \$8,020.63.

The committee's bank records show that in 2014 and 2015, the committee did not have sufficient funds to pay fines and fees owed to the Board and to return an excess contribution to the source as ordered by the Board. Sen. Petersen supplied \$4,699.73 of personal funds to the committee in these years so that it could meet these obligations. The committee did not reimburse Sen. Petersen for these funds. In addition, records show that Sen. Petersen personally paid \$2,544.42 in committee bills in 2015, for which he was not reimbursed. These unreimbursed payments partially offset the previous years' impermissible reimbursements. After subtracting the offsetting amounts from the total amount, \$776.48 in improper reimbursements remain unrepaid.

Recordkeeping and reporting

To help ensure that money collected for political purposes has not been converted to personal use, committees must disclose their financial transactions on reports that are filed with the Board. Minn. Stat. § 10A.20, subd. 3. Chapter 10A also requires committees to obtain and maintain internal records of their financial transactions. Minnesota Statutes section 10A.025, subdivision 3, specifically provides as follows:

A person required to file a report or statement or who has accepted record-keeping responsibility for the filer must maintain records on the matters required to be reported, including vouchers, canceled checks, bills, invoices, worksheets, and receipts, that will provide in sufficient detail the necessary information from which the filed reports and statements may be verified, explained, clarified, and check for accuracy and completeness. The person must keep the records available for audit, inspection, or examination by the board or its authorized representatives for four years from the date of filing of the reports or statement or of changes or corrections to them.

See also Minn. Stat. § 10A.13 (requiring committees to keep accounts of all cash transactions and obtain receipts for all bills over \$100).

The Board may impose a civil penalty of up to \$3,000 on a person who knowingly violates the recordkeeping provisions and an additional civil penalty of up to \$3,000 on the committee affiliated with that person. Minn. Stat. § 10A.025, subd. 3 (b). The Board also may impose a civil penalty of up to \$3,000 against a person who signs and certifies to be true a report knowing that it contains false information or knowing that it omits required information. Minn. Stat. § 10A.025, subd. 2. Under these provisions, Sen. Petersen could be exposed to civil penalties of up to \$6,000 for inadequate recordkeeping and up to \$6,000 for false certification. The senate committee could be exposed to civil penalties of up to \$6,000 for being affiliated with a person who violated the recordkeeping provision.

In this case, Sen. Petersen acted as his own treasurer for both his committees. Sen. Petersen said that he rarely obtained or kept receipts for expenses or reimbursements for the following reason:

I understood that my payment history would be a record that I could obtain in the event that . . . I was questioned about the expenses, and . . . then the bank account itself would provide records. And so my logic was that upon request that I could provide those . . . things.

Sen. Petersen was able to obtain bank records for his committees but discovered the following:

It's a lot of work to acquire them. Just to acquire, just to obtain the records that I have to this point takes a considerable amount of time.

In fact, it took several months for Sen. Petersen to obtain copies of the committees' bank records and additional time to obtain records that inadvertently were omitted from the first record request.

Although the bank records did document the house committee's transactions and the contributions made to the senate committee, they did not document the purpose of the reimbursements that the senate committee made to Sen. Petersen. Sen. Petersen said that because of his poor recordkeeping he could not recall all of the incremental expenses of serving in office for which he had been reimbursed.

Sen. Petersen said that the lack of records also prevented him from filing accurate reports. Sen. Petersen described his report preparation as follows:

I would gather the information to the best of my ability and, and enter the information . . . with the sources that I had. . . . I didn't keep some records for myself; . . . I didn't have no, you know, no records, and so I would fill them out to the best of my ability with the information that I had.

Sen. Petersen also stated that "as time went on, the poor recordkeeping . . . sort of compounds on itself and makes it difficult to reconcile over a period of years."

The records provided showed that there were inaccuracies in the house committee's reports of receipts and expenditures. These errors included listing in-kind contributions and expenditures in the cash totals on the summary pages, omitting some unpaid obligations, and reporting some contributions and expenditures on incorrect schedules. In addition, in 2012, some contributions to and expenditures by the house committee appear to have been incorrectly attributed to the senate committee. These errors are reporting mistakes that can be corrected by the filing of amended reports.

The bank records showed that the senate committee's reports for 2012 and 2013 also included several errors. These errors, however, were much more significant than those on the house committee reports. For example, although Sen. Petersen made over \$7,000 in permissible and impermissible reimbursements to himself in 2012, only \$2,000 of those payments were listed on the senate committee's report for that year. Sen. Petersen stated that he knew that he should report all of the reimbursements but he did not do so for the following reason:

At a certain point, and I don't remember exactly when, . . . I just lost the ability to reconcile all of the numbers, and I didn't know if I was supposed to file an amendment for . . . expenses that were being reimbursed for the previous years' reporting, and I just didn't have any way to, that was comfortable at the time . . . to be able to . . . make it right from the reporting standpoint.

The 2012 senate report also overstated contributions made to the committee by approximately \$10,000 and understated the committee's expenditures by \$3,000. Sen. Petersen acknowledged that when he signed the committee's 2012 year-end report certifying that the committee's year-end balance was \$13,102.73, he knew that the committee's actual bank balance was \$101.35.

Sen. Petersen similarly stated that when he signed the committee's 2013 year-end report certifying that the committee had a year-end balance of \$19,776.13, he knew that figure was not correct. The record shows that the committee's reconciled bank balance at the end of 2013 was \$4,699.13. The discrepancy between the committee's actual bank balance and its reported balance had grown since 2012 because the 2013 report omitted almost \$7,000 in permissible

and impermissible reimbursements made to Sen. Petersen and approximately \$5,000 in contributions made to the committee.

Sen. Petersen said that he delayed filing his committee's 2014 year-end report until September 2015 and contacted the Board at that time because he knew that he could not reconcile that report with the bank account. Sen. Petersen stated that in late September, he "[d]ecided at this point . . . that I had no ability to reconcile and that I would end . . . my service in the Senate and attempt to put this issue to bed in a way that reflected the right information."

Sen. Petersen already had decided not to run for re-election because of the effect that serving in office had on his ability to provide for his family. Sen. Petersen stated that the problem he was having with his committee's financial records was the primary reason why he resigned from the senate 14 months before his term ended. Sen. Petersen specifically stated:

I think I've spoken to my deep regret over the way that, that I handled, or didn't handle, my, my campaign finance committee. I really can't articulate just how I feel about that, how bad I feel about it, how guilty I feel about it. It's, it's a shame on me and, and I feel as though, I wish I would have taken action earlier. I wish that I would have had the integrity at the time to, to make the right decisions.

And I, I do feel like I did the right thing in resigning my seat. I feel like that was the, the most I could do at the time, to end the committee and begin the process of reconciling both at a personal level and technically as it relates . . . to the Campaign Finance Board.

Not being able to go back in time and, and be honest about the things that I did, at the moment that I made that decision, I feel like it was the most drastic move that, that I could make that maintained the integrity of campaign finance in general and the public trust, and that's how serious I took the issue. I wish that I would have taken it earlier.

Sen. Petersen said that after reaching this decision, he contacted the Board's executive director to arrange the October 19th meeting at which he asked for help in reconciling the committee's accounts and determining the amount to repay along with any penalties. Sen. Petersen resigned from the Senate officially on October 31, 2015.

The information and testimony related above establishes that Sen. Petersen was the person responsible for the committee's recordkeeping and that he did not obtain the records required by Minnesota Statutes sections 10A.025, subdivision 3, or maintain those records for the required four years. The record also shows that when Sen. Petersen signed the committee's 2012 and 2013 reports, he knew that those reports contained false information and omitted required information. The Board will exclude the committee's 2014 report from the false certification analysis because Sen. Petersen had contacted staff about the committee's financial issues at the time he filed that report.

Aggregate special source limit violation

Minnesota Statutes section 10A.27, subdivision 11, establishes a limit on the amount that candidate committees may accept in aggregate from lobbyists, political committees and funds, and associations not registered with the Board. The Board may impose a civil penalty of up to four times the amount of the excess contribution on a committee that exceeds this limit. Minn. Stat. § 10A.28, subd. 2 (4). For the 2013-2014 non-election cycle segment, the aggregate special source limit for a state senate committee was \$6,000. The Branden (Petersen) for Senate committee records show that the committee accepted \$6,640 in contributions from these sources during the 2013-2014 non-election cycle segment. Consequently, the Branden (Petersen) for Senate committee exceeded the aggregate special source contribution limit for the 2013-2014 non-election cycle segment by \$640.

Based on the above analysis, the Board makes the following:

Findings of fact

1. The Branden (Petersen) for Senate committee reimbursed Branden Petersen \$8,020.63 for family car payments and other undocumented expenses in 2012, 2013, and 2014.
2. When these reimbursements were made, Branden Petersen believed that they were for allowable expenses for serving in public office. Sen. Petersen did not discover that some of the reimbursements were improper until the fall of 2015 when he contacted the executive director to discuss his committee's finances.
3. Branden Petersen supplied \$4,699.73 in personal funds to the committee in 2014 and 2015 so that it could pay Board fines and fees and return an excess contribution to its source. Branden Petersen personally paid another \$2,544.42 in committee expenses in 2015. The committee did not reimburse Sen. Petersen for these funds. After offsetting these payments, the amount of the improper reimbursements that remains unpaid is \$776.48.
4. The Branden (Petersen) for Senate committee and Branden Petersen did not keep required records of or obtain required receipts for all committee expenditures during the years 2012 and 2013.
5. Branden Petersen signed the committee's 2012 and 2013 year-end reports of receipts and expenditures knowing that the year-end balances on those reports were false and knowing that the reports omitted reimbursements paid to him during those years.
6. Branden Petersen resigned his senate seat 14 months before his term ended because of his inadequate recordkeeping and reporting on behalf of the committee.
7. The Branden (Petersen) for Senate committee accepted \$6,640 in contributions from special sources in the 2013-2014 non-election cycle segment. The committee has no prior excess special source violations.

8. Sen. Petersen cooperated with the investigation and was candid with the Board throughout the matter.

Based on the analysis and the findings of fact, the Board makes the following:

Conclusions of law

1. The Branden (Petersen) for Senate committee and Branden Petersen violated Minnesota Statutes section 211B.12 by converting \$8,020.63 in committee funds to personal use to reimburse Sen. Petersen for personal car payments and other undocumented expenses. After offsetting the \$7,244.15 in unreimbursed personal funds that Sen. Petersen provided to or on behalf of the committee, \$776.48 of the converted funds remain unpaid. Because Sen. Petersen received these funds, the \$776.48 must be repaid to the state.
2. The Branden (Petersen) for Senate committee and Branden Petersen violated Minnesota Statutes sections 10A.025, subdivision 3, and 10A.13 by failing to obtain and maintain records of the committee's expenditures.
3. Branden Petersen violated Minnesota Statutes section 10A.025, subdivision 2(b), in 2012 and 2013 by signing and certifying to be true reports for the Branden (Petersen) for Senate committee when he knew those reports contained false information and omitted required information.
4. The Branden (Petersen) for Senate committee violated Minnesota Statutes section 10A.27, subdivision 11, for the 2013-2014 non-election cycle segment by accepting \$640 in excess contributions from special sources.
5. The Board has the authority to consider Sen. Petersen's cooperation during the investigation, his candor with the Board, and his resignation from office when determining the appropriate amount of civil penalties to impose in this matter.

Based on the analysis, findings of fact, and conclusions of law, the Board issues the following:

Order

1. The Branden (Petersen) for Senate committee must file amended year-end reports for 2012 through 2014 and a year-end report for 2015 that terminates the committee's registration with the Board. Branden Petersen must file amended year-end reports for his former house committee for the years 2010 through 2012. All amended reports must be filed within 30 days of the date of this order.
2. Branden Petersen must pay to the state the remaining \$776.48 in improper reimbursements.

3. A civil penalty in the amount of \$1,000 is assessed against the Branden (Petersen) for Senate committee and Branden Petersen personally for inadequate recordkeeping in 2012 and 2013.
4. A civil penalty in the amount of \$2,000 is assessed against the Branden (Petersen) for Senate committee and Branden Petersen personally for false certification of the committee's 2012 and 2013 reports.
5. Branden Petersen must pay to the state the \$640 in excess special source contributions accepted by the committee during the 2013-2014 non-election cycle segment.
6. A civil penalty in the amount of \$640 is assessed against the Branden (Petersen) for Senate committee and Branden Petersen personally for the committee's violation of the special source contribution limit. The amount of the civil penalty is one times the amount of the excess special source contributions accepted by the committee.
8. The executive director is authorized to enter into an agreement with Branden Petersen that provides for payment of the \$5,056.48 in civil penalties, committee funds converted to personal use, and excess contributions listed above over the 18 months following the date of this order. Payments must be made by check or money order payable to the State of Minnesota according to the terms of the payment agreement.
9. If Branden Petersen or the Branden (Petersen) for Senate committee does not comply with the provisions of this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
10. This order resolves the violations discussed above and all other violations that could have arisen out of the reports filed by Branden Petersen's house and senate committees.
11. 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.022, subdivision 5.

 /s/ Daniel N. Rosen

Date: July 6, 2017

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