

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

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF THE BOARD INVESTIGATION OF THE MINNEAPOLIS DFL COMMITTEE

Background

The Minneapolis DFL Committee is a political party unit registered with the Campaign Finance and Public Disclosure Board. In 2018, the Minneapolis DFL failed to file its pre-primary and pre-general reports of receipts and expenditures. Board staff sent first class and certified letters to the Minneapolis DFL's treasurer of record, David Gilbert-Pederson, notifying him of the need to file the reports. The party unit, however, did not file the missing reports or contact Board staff to explain why the reports were late. The Minneapolis DFL also failed to file its 2018 year-end report.

Board staff prepared a request for the February 6, 2019, Board meeting to refer the Minneapolis DFL to the attorney general's office for litigation to obtain the missing reports and to collect the late filing fees and civil penalties that had accrued for those reports. Shortly thereafter, the Minneapolis DFL, through its attorney David Zoll, contacted Board staff to state that the party unit was working to submit the 2018 reports. Board staff then withdrew the referral request during the February meeting.

After working with Board staff, the Minneapolis DFL filed its 2018 pre-primary, pre-general, and year-end reports on November 27, 2019. Mr. Zoll told staff, however, that while completing the 2018 reports, the Minneapolis DFL had discovered that its 2017 year-end report was inaccurate and appeared to be missing significant receipts and expenditures. In addition, the 2018 beginning cash balance did not match the ending cash balance on the 2017 year-end report previously filed by the party unit. Board staff asked the Minneapolis DFL to provide detailed information about the missing receipts and expenditures and to explain the balance discrepancy. When Board staff met with Mr. Zoll in December 2019 to discuss the next steps in the matter, Mr. Zoll indicated that the party unit also had discovered some minor discrepancies on its 2016 year-end report.

On February 21, 2020, Mr. Zoll provided a letter summarizing the issues with the Minneapolis DFL's 2017 year-end report. The party unit also provided copies of its bank statements and a spreadsheet listing the dates and amounts of the transactions missing from its 2017 report. The letter stated that in May 2018 the Minneapolis DFL had elected Devin Hogan as its chair and Mr. Gilbert-Pederson as its treasurer. Mr. Hogan and Mr. Gilbert-Pederson claimed that they had been unable to obtain access to the Minneapolis DFL's bank accounts and other financial information from the former chair. The letter said that in March 2019, with Mr. Zoll's assistance, the party unit had been able to complete the transfer of its two bank accounts to the new officers.

The letter also stated that the bank records showed that approximately \$23,000 in receipts and \$26,000 in expenditures had been omitted from the Minneapolis DFL's 2017 year-end report. The Minneapolis DFL claimed that because the former chair had refused to provide any records, it could not determine from whom the missing contributions had been received or to whom the missing payments had been made. The party unit proposed filing a letter amendment for 2017 that listed only the dates and amounts of the missing transactions. The letter also described minor amendments that were required for the 2016 year-end report and stated that a \$1,242.51

downward adjustment was needed to the beginning balance on that report to account for discrepancies that predated January 1, 2016.

Given the significant discrepancies between the amounts on the Minneapolis DFL's 2017 year-end report and the amounts shown on its bank statements and the party unit's inability to explain those discrepancies, the Board granted the executive director's request to open an investigation of the Minneapolis DFL on March 6, 2020. The potential violations to be investigated included the following:

1. Certification of a report of receipts and expenditures knowing that the report contained false information or omitted required information, and being a party unit associated with someone who certified such a report, in violation of Minnesota Statutes section 10A.025, subdivision 2.
2. Failure to maintain for four years financial records which may be used to verify filed reports, and being a party unit affiliated with someone who failed to maintain these records, in violation of Minnesota Statutes section 10A.025, subdivision 3.
3. Failure to maintain accounts of contributions received and expenditures made by a political party unit in violation of Minnesota Statutes section 10A.13.
4. Failure to file reports that accurately disclosed all of a party unit's financial transactions in violation of Minnesota Statutes section 10A.20, subdivision 3.

As part of the investigation, Board staff attempted to contact the party unit's former chair, Alicia Bennett, and its former treasurer, Seth Zawila, to obtain information related to the Minneapolis DFL's finances. Board records show that Ms. Bennett became chair in September 2017 and served until May 2018. The letter to Ms. Bennett was returned because the address was no longer valid.

Mr. Zawila, however, provided Board staff with copies of the party unit's 2017 and 2018 Campaign Finance Reporter (CFR) databases. These databases contained all of the information on the party unit's 2017 report and the information that Mr. Zawila had entered for the party unit in 2018. Mr. Zawila explained that he had taken over from treasurer Dana Gutierrez in December 2017 to file the 2017 year-end report. Board records show that Ms. Gutierrez took over as treasurer in September 2017 from Tim Bonham, who had been in that office for over ten years. Mr. Zawila believed that the treasurer transition in September had not been voluntary.

Mr. Zawila stated that when he met with Ms. Gutierrez, she gave him the party unit's financial records, including the party unit's 2017 CFR database. Mr. Zawila then filed the 2017 year-end report using the information that he had received. Mr. Zawila said that when he later learned that information from the party unit's second bank account and a union contribution had been omitted from the 2017 report, he filed two separate amendments to correct these omissions. When Mr. Zawila looked at the reports to respond to the Board request, however, he discovered that only the amendment adding the union contribution had been received. Mr. Zawila said that he met with Mr. Hogan and Mr. Gilbert-Pederson, the party unit's new chair and treasurer, on May 31, 2018, and gave them the CFR database information for 2017 and 2018, bank statements from both of the party unit's bank accounts, and access to the party unit's primary account.

Board staff used the database information provided by Mr. Zawila to determine which bank transactions were included on the party unit's 2017 report. The chart below shows the discrepancies in receipts and expenditures between the party unit's 2017 report and its primary bank account.

	2017 report	2017 bank account¹	Difference
Total receipts	\$22,031.54	\$52,087.65	\$30,056.11
Total expenditures	\$32,088.63	\$61,827.04	\$29,738.41

On October 8, 2020, Board staff asked the Minneapolis DFL to contact its bank to obtain copies of all of its deposit records. Board staff also asked the party unit to obtain cancelled checks for 16 missing expenditures that were over \$200 and therefore should have been itemized on the 2017 report. The deposit records showed that at least \$16,045 of the omitted receipts were from sources that should have been itemized on the party unit's report. The deposit records were not able to provide any information regarding the source of \$21,869.30 of the party unit's overall receipts. The check records provided the names of the vendors for the 16 omitted expenditures. These 16 expenditures accounted for \$27,107.74 of the \$29,738.41 in unexplained expenses.

Analysis

To help ensure that the public knows where money collected for political purposes has come from and how that money has been spent, party units must disclose all of their financial transactions on reports that are filed with the Board. Minn. Stat. § 10A.20, subd. 3. Chapter 10A also requires party units to obtain and maintain internal records of their financial transactions. Minnesota Statutes section 10A.13 requires party units to obtain the name and address of each source of a contribution over \$20 and a receipted bill for any expenditure over \$100. In addition, 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 checked 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 statements or of changes or corrections to them.

When a report filed with the Board does not accurately disclose all of a party unit's transactions, the party unit must promptly amend that report. Minn. Stat. § 10A.025, subd. 4. In addition, the Board may impose a civil penalty of up to \$3,000 on a person who knowingly fails to keep the required records as well as an additional civil penalty of up to \$3,000 on the party unit affiliated with that person. Minn. Stat. § 10A.025, subd. 3 (b).

In this case, the party unit had three treasurers in 2017: Tim Bonham, Dana Gutierrez, and Seth Zawila. As a treasurer for over ten years, Mr. Bonham must have known that he needed to keep financial records for the party unit in order to file reports with the Board. Mr. Zawila stated that when he took over from Ms. Gutierrez, she gave him the party unit's financial records to use to file the 2017 report. Mr. Zawila then filed the 2017 report based on those records. This

¹ This column only includes transactions from the primary bank account. The only transaction in 2017 for the second bank account was \$3.50 in interest earned.

information shows that Ms. Gutierrez and Mr. Zawila also knew that they needed to keep records of the party unit's financial transactions.

Yet despite this knowledge, the party unit has no records of the names and addresses of each source of a contribution over \$20 for 2017. Nor does the party unit have receipted bills for all of its expenditures over \$100 during 2017. Although the party unit was able to obtain some records after the fact from its bank, it still cannot explain the source of \$21,869.30 in receipts or the purpose of \$27,107.74 in expenditures. In short, the record here shows that the party unit's treasurers failed to collect and maintain all required records for the party unit in 2017.

The Minneapolis DFL ultimately is responsible for the inadequate recordkeeping that occurred in this matter. During 2017, the party unit had three treasurers. New officers were chosen again just five months later in May 2018. Even if the party unit had procedures in place to guide treasurer transitions, the lack of records in this matter shows that those procedures were not followed. The fact that an officer transition is not voluntary or is acrimonious does not absolve a party unit of its recordkeeping and oversight responsibilities. Further, when a party unit has significant changeover between treasurers it should take all steps necessary to ensure that all required records are kept during these times of leadership transition or disagreement.

The party unit's inadequate oversight and recordkeeping led to the filing of inaccurate reports with the Board in violation of Minnesota Statutes section 10A.20, subdivision 3. Specifically, due to its lack of recordkeeping, the party unit omitted \$30,056.11 of its receipts and \$29,738.41 of its expenditures from its 2017 report. These amounts are very large on their own. In this case these amounts are even more significant because they represent over half of the party unit's total receipts and nearly half of its total expenditures. The omissions also are significant because if adequate records had been kept, the sources of an additional \$16,045 in receipts and the recipients of \$27,107.74 in expenditures would have been specifically identified on the 2017 report.

The failure to keep adequate records in 2017 also led to the Minneapolis DFL's failure to timely file its 2018 reports. The party unit officers who took over in May 2018 have explained that they did not file the 2018 reports because they believed that they did not have access to all of the party unit's financial records. As a result, the Minneapolis DFL incurred \$3,000 in late fees for the 2018 reports: \$1,000 each for the pre-primary, pre-general, and year-end reports. The party unit also incurred \$2,000 in total civil penalties: \$1,000 for the pre-primary report and \$1,000 for the pre-general report.

When deciding whether to impose a civil penalty for a violation of the recordkeeping requirements, and the amount of that penalty, the Board considers several factors.² Here, the Board declines to impose a civil penalty against any of the party unit's 2017 treasurers because each treasurer served for only part of 2017. The Board, however, will impose a civil penalty of \$3,000 against the Minneapolis DFL for being a party unit affiliated with a treasurer who knowingly failed to keep required records. The amount of the penalty is based on the large dollar amount of the transactions that did not have supporting records or were omitted from the report, the fact that the omitted transactions represented over half of the party unit's receipts and almost half of its expenditures, the fact that a significant portion of the omitted transactions

² Minnesota Statutes section 14.045, subdivision 3, lists factors that agencies must consider when setting the amount of a fine including the gravity, willfulness, and number of violations; the offender's past violations and economic benefit; and any other factor that justice requires.

should have been itemized on the report, and the party unit's failure to adequately oversee the treasurer transitions.

Although the party unit's 2017 and 2018 reports were inaccurate or untimely, nothing in the record suggests that a party unit treasurer certified a report knowing that it was false or omitted information. Mr. Zawila did not take over as treasurer until December 2017. He therefore was not familiar with the party unit's transactions during eleven months of that year. After becoming treasurer, Mr. Zawila submitted the year-end report based on his belief that it contained all of the party unit's financial transactions. When Mr. Zawila later discovered that some information was missing, he tried to amend the report. Similarly, Mr. Gilbert-Pederson did not submit the 2018 reports to the Board until he believed that they contained correct information. For these reasons, the Board concludes that neither Mr. Zawila nor Mr. Gilbert-Pederson certified a report to the Board knowing that it was false or omitted information.

Finally, the Board has the authority under Minnesota Statutes section 10A.02, subdivision 15, to waive late fees and civil penalties incurred for reports when good cause is shown. Typically, the Board considers a waiver request after the conclusion of an investigation. In this matter, however, the violation of the recordkeeping requirements in 2017 prevented the party unit from timely filing its 2018 reports, which led to the incurred late fees and civil penalties. Because the late fees and civil penalties arise out of the same facts that underlie the investigation, the Board will consider whether good cause exists to waive those late fees and civil penalties as part of the investigation. Given the lack of available records, the Board concludes that the Minneapolis DFL had good cause for not timely filing its 2018 pre-primary report. The Board therefore will waive the \$1,000 late fee and the \$1,000 civil penalty imposed for the 2018 pre-primary report. The party unit, however, did not contact the Board for help or respond to Board notices about the missing pre-primary report. Instead, the party unit allowed two more reporting periods to pass and still did not contact the Board until the matter was to be referred for litigation. Given the party unit's inaction, the Board finds that there is not good cause to waive the \$1,000 late fee or the \$1,000 civil penalty imposed for the 2018 pre-general report or the \$1,000 late fee imposed for the 2018 year-end report.

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

Findings of fact

1. The Minneapolis DFL Committee is a political party unit registered with the Board. The party unit needs a downward adjustment of \$1,251.42 to the beginning cash balance on its 2016 year-end report to account for discrepancies that arose before January 1, 2016.
2. The Minneapolis DFL had three treasurers in 2017: Tim Bonham, Dana Gutierrez, and Seth Zawila. All three treasurers knew that they needed to keep records of the party unit's financial transactions that would be sufficient to verify and explain the reports of receipts and expenditures filed with the Board.
3. Despite this knowledge, none of the treasurers kept records sufficient to verify and explain the party unit's 2017 report of receipts and expenditures. Specifically, the party unit does not have records showing the name and address of every contributor of over \$20 or a receipted bill for every expenditure. The party unit also does not have records showing the source of \$21,869.30 of its receipts.
4. The Minneapolis DFL is a party unit affiliated with a person who knowingly failed to keep records sufficient to explain required reports. The Minneapolis DFL also is responsible for

the failure to keep adequate records in this case because it did not follow policies or procedures to ensure that required records were maintained during the treasurer transitions.

5. Due to the inadequate recordkeeping, the Minneapolis DFL's 2017 year-end report did not accurately disclose all of its financial transactions. Specifically, the report omitted \$30,056.11 of its receipts and \$29,738.41 of its expenditures. The report also failed to itemize \$16,045 in receipts and \$27,107.74 in expenditures that were over \$200.
6. Due to the inadequate recordkeeping, the Minneapolis DFL filed untimely pre-primary, pre-general, and year-end reports for 2018. The Minneapolis DFL incurred \$3,000 in late fees for the untimely filed 2018 reports: \$1,000 each for the pre-primary, pre-general, and year-end reports. The party unit also incurred \$2,000 in total civil penalties for the reports: \$1,000 for the pre-primary report and \$1,000 for the pre-general report. The party unit did not contact the Board to ask for help or to explain the reason for the late reports until the Board was preparing to refer the matter to the attorney general's office for litigation to obtain the reports and amounts owed.
7. Neither Seth Zawila nor David Gilbert-Pederson signed or certified a report of receipts and expenditures knowing that it was false or omitted required information.

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

Conclusions of law

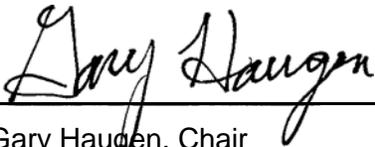
1. The Minneapolis DFL Committee and its 2017 treasurers violated Minnesota Statutes sections 10A.025, subdivision 3, and 10A.13, by failing to obtain and maintain required records of its receipts and expenditures sufficient to verify and explain its report of receipts and expenditures for that year.
2. The Minneapolis DFL Committee violated Minnesota Statutes section 10A.20, subdivision 3, by not filing a 2017 year-end report that accurately disclosed all of its financial transactions.
3. The Minneapolis DFL Committee and its treasurers did not violate the false certification provision in Minnesota Statutes section 10A.025, subdivision 2, paragraph (b), with respect to the 2017 year-end report.
4. The Minneapolis DFL Committee had good cause for failing to timely file its 2018 pre-primary report. The party unit did not have good cause for failing to timely file its 2018 pre-general and year-end reports.

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

Order

1. The beginning cash balance on the Minneapolis DFL Committee's 2016 year-end report is adjusted downward by \$1,251.42.
2. The Minneapolis DFL Committee must file an amended year-end report for 2017. The party unit must work with Board staff to determine how to accurately report receipts and expenditures for which detailed information is not available. The amended report must be filed within 60 days of the date of this order.

3. A civil penalty in the amount of \$3,000 is assessed against the Minneapolis DFL for inadequate recordkeeping in 2017.
4. The \$1,000 late fee and the \$1,000 civil penalty incurred for the party unit's 2018 pre-primary report are waived for good cause. The \$2,000 in late fees and \$1,000 in civil penalties owed for the 2018 pre-general and year-end reports are not waived.
5. The Minneapolis DFL must pay the late filing fees and civil penalties within 30 days after the date of this order or enter into a payment plan with the Executive Director with 30 days after the date of this order. If the Minneapolis DFL enters into a payment plan, the total repayment period shall not exceed 18 months.
6. The Minneapolis DFL must require the party unit's chair and treasurer to attend annual Board compliance trainings in both 2021 and 2022 and must provide certifications of their attendance to the Board.
7. 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.



Gary Haugen, Chair
Campaign Finance and Public Disclosure Board

January 8, 2021