

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

CONCILIATION AGREEMENT

In the matter of the Dr. Scott Jensen for Governor committee (18690);

1. Dr. Scott Jensen for Governor is the principal campaign committee of Dr. Scott Jensen and Matt Birk. The total amount of contributions that candidates for governor and lieutenant governor, running together, could accept from a single individual during the 2021-2022 election cycle segment was \$4,000. The committee's reports of receipts and expenditures collectively disclosed contributions from several individuals in excess of the \$4,000 limit. The committee's treasurer, Scott Elleraas, explained that multiple contributions were returned within 90 days of deposit pursuant to Minnesota Statutes section 10A.15, subdivision 3, or were attributed to the spouse of the individual who was initially reported to be the contributor, which is not a violation of the individual contribution limit.

2. The committee received 25 contributions from Karl Anderson totaling \$11,595 through July 18, 2022. The committee provided documentation showing that the excess amount of \$7,595 was returned via a check dated August 24, 2022. Of that amount, \$2,720 was returned within 90 days and the remaining \$4,875 of the excess amount is deemed accepted. Two contributions of \$25 each received from the same contributor in September and October of 2022 were returned within 90 days of deposit and therefore were not accepted.

3. The committee uses the Board's Campaign Finance Reporter software and relied on a feature of the software known as a batch compliance report, which identifies potential violations of contribution limits. The committee imported much of its contribution data into the software using a file generated by a vendor. When data is imported into Campaign Finance Reporter and the name of a contributor within the file exactly matches the name of a contributor within the software, but the address information does not exactly match, the software asks the user whether to create a new record or import the data using the existing record. The committee mistakenly created new contributor records in some instances when it should have used existing records, resulting in the creation of three separate contributor records for Mr. Anderson. As a result, the batch compliance report that the committee generated for 2021 did not aggregate all of Mr. Anderson's contributions and did not detect a violation involving that contributor. That was the result of user error and a penalty will be imposed for the amount that the committee accepted from Mr. Anderson in excess of the individual contribution limit in 2021, which was \$650. Typically, excess contributions are identified by the Board through a series of computer checks on the year-end report data. Committees are notified of any violation, and are then aware that the committee should not accept additional contributions from that donor. However, the excess contributions from Mr. Anderson were not initially identified in the computer checks, and Board staff did not contact the Jensen committee regarding the excess amount given by Mr. Anderson until early August of 2022. This delay meant that the committee was not notified that there were multiple entries for Mr. Anderson in the Campaign Finance Reporter software that could lead to additional violations until after additional contributions from Mr. Anderson had already been accepted. For that reason, no penalty will be imposed for the excess amount accepted from Mr. Anderson in 2022.

4. The committee initially reported receiving a \$10,000 contribution from Jeff Smiens in 2021. After being contacted by Board staff, the committee stated that Mr. Smiens intended for the contribution to be divided between himself, his spouse, and his son, and although that intent was memorialized, the contribution was entered in the Campaign Finance Reporter software as a single \$10,000 contribution. While contributions from married spouses may be delivered by one of the spouses without implicating the individual contribution limit pursuant to Minnesota Statutes section 10A.27, subdivision 1, paragraph (b), that exception to the bundling limitation does not extend to the contributions of other family members. The committee has filed an amended 2021 year-end report attributing \$4,000 of the total given to the spouse of Mr. Smiens. The remaining \$2,000 excess amount is deemed accepted. The committee provided documentation showing that \$2,000 was refunded via a check dated October 13, 2022.

5. The committee received contributions from Kristina Dondelinger consisting of \$1,000 received in 2021 and \$4,000 received on approximately August 1, 2022. The excess amount of \$1,000 is deemed accepted. The committee provided documentation showing that a \$1,000 refund check was issued on December 2, 2022. Mr. Elleraas and the committee's attorney, Nicholas Morgan, explained that the committee initially did not discover certain excess contributions due to problems using the Campaign Finance Reporter software. At some point in 2022, the committee could no longer generate the batch compliance report, likely due to the volume of data the committee had entered or imported into the software. The committee reached out to Board staff for assistance and Board staff generated a batch compliance report in early November of 2022, but that report took approximately eight hours to generate and only included the 2022 calendar year. Because the committee was unaware of the excess amount given by Ms. Dondelinger due to its inability to reliably use a feature of the software provided by the Board, no penalty will be imposed for the excess amount accepted from Ms. Dondelinger.

6. The committee received contributions from William Naegele consisting of \$4,000 received in 2021, \$100 received in July 2022, and \$500 received on approximately November 1, 2022. The committee provided documentation showing that a \$600 refund check was issued on January 12, 2023. Of that amount, \$500 was returned within 90 days and the remaining \$100 of the excess amount is deemed accepted. The committee initially did not discover the excess amount due to its inability to generate the batch compliance report. Because the committee was unaware of the excess amount given by Mr. Naegele due to its inability to reliably use a feature of the software provided by the Board, no penalty will be imposed for the excess amount accepted from Mr. Naegele.

7. The committee received two contributions from Carroll Brooks totaling \$4,100 in 2021. Mr. Elleraas stated that he intended to issue a refund for the excess amount but it was not returned within 90 days of deposit. The excess amount of \$100 is deemed accepted. The committee provided documentation showing that \$100 was refunded via a check dated April 8, 2022.

8. Mr. Morgan emphasized that the committee, including Dr. Jensen, has been in frequent contact with Board staff and has worked diligently to avoid campaign finance violations and address issues as they arose.

9. The parties agree that the committee inadvertently accepted excessive contributions from five individuals in violation of Minnesota Statutes section 10A.27, subdivision 1, during the 2021-2022 election cycle segment. This committee registered with the Board in March of 2021 and has no prior violations of the individual contribution limit.

10. To avoid similar violations in the future, the committee agrees to either:

- a. Dissolve and terminate its registration with the Board; or
- b. Merge existing, and seek to avoid creating, duplicate contributor records within Campaign Finance Reporter and promptly return excess contributions when aware of the need to do so.

11. The Jensen committee agrees to the imposition of a civil penalty of \$2,750, one times the amount of the violations excluding the amounts given by Mr. Anderson, Ms. Dondelinger, and Mr. Naegele in 2022, for accepting contributions in excess of the limit imposed by Minnesota Statutes section 10A.27, subdivision 1. Of this amount, \$700 is due within 30 days of the date the agreement is signed by both parties. The remaining \$2,050 of the penalty is, by the terms of this agreement, stayed until January 1, 2025. If the committee violates Minnesota Statutes section 10A.27, subdivision 1, before January 1, 2025, the outstanding civil penalty is due immediately. If the committee does not violate Minnesota Statutes section 10A.27, subdivision 1, before January 1, 2025, the outstanding civil penalty is waived.

12. The Jensen committee agrees to file, within 10 business days of the date the agreement is signed by both parties, an amended 2021 year-end report showing that the committee received \$6,000 from Mr. Smiens and \$4,000 from the spouse of Mr. Smiens, with no contribution attributed to the son of Mr. Smiens.

13. The Jensen committee also agrees to provide to the Board, within 60 days of the date the agreement is signed by both parties, copies of the deposited checks or other documentation showing that the refund checks issued to Ms. Dondelinger and Mr. Naegele have been deposited.

14. If the committee does not comply with the provisions of this agreement, this matter may be reopened by the Board and the Board may take such actions as it deems appropriate.

/s/ Scott Jensen
Dr. Scott Jensen
Dr. Scott Jensen for Governor

Dated: February 28, 2023

/s/ George W. Soule
George Soule, Chair
Campaign Finance and Public Disclosure Board

Dated: February 8, 2023