

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

ORDER FOR A FORMAL INVESTIGATION

IN THE MATTER OF RIGHT NOW MINNESOTA, 1854, INC., AND BRICK, INC.

Background

Right Now Minnesota (Right Now MN), Board registration number 41185, is an independent expenditure political committee that registered with the Board on December 19, 2017. The Board ordered a formal audit of the committee on November 1, 2023, for the purpose of determining if the reports of receipts and expenditures filed by the committee regarding 2022 were accurate. As originally filed the reports disclosed that the committee made no independent expenditures in 2022; instead, the committee reported paying \$319,000 to a vendor named 1854, Inc. (1854) for “Internet Access and Web Hosting”. During the course of the audit Right Now MN filed two amended reports that disclosed that the committee spent over \$290,000 in 2022 on independent expenditures supporting or opposing over two dozen candidates.

The results of the audit were presented to the Board in executive session on July 10, 2024. Based on information provided by Right Now MN during the course of the audit, staff requested a formal investigation of Right Now MN to determine if the committee or Elliott Olson, the treasurer for Right Now MN in 2022, violated Minnesota Statutes sections 10A.13 (accounting requirements), 10A.025, subdivision 2 (false certification of a report), 10A.025, subdivision 3 (recordkeeping requirements), 211B.04 (disclaimer requirements), and 211B.12 (use of funds raised for a political purpose). In addition, staff requested a formal investigation to better understand the relationship between Right Now MN and its vendors Dakota Worldwide Corporation, Brick, Inc. (Brick), and 1854. The Board approved the request to open a formal investigation, and the final audit report was signed by the Board Chair on July 18, 2024.

As part of the investigation, on September 12, 2024, Board staff deposed Elliott Olson. Mr. Olson testified that 1854 was responsible for creating and filing Right Now MN’s 2022 year-end report, and for determining which candidates would be the subject of independent expenditures paid for by Right Now MN. 1854’s business filings with the Office of the Minnesota Secretary of State list Anna Lotzer as its CEO. Ms. Lotzer is also a former Brick employee. Brick is an advertising agency incorporated in Minnesota. On October 2, 2024, Ms. Lotzer emailed Board staff regarding the possible expansion of the Board’s investigation, and stated that “1854 Inc was a vendor and all the political campaigns, IE decisions, and reporting was subcontracted to Brick, Inc.” During its meeting that same day, the Board expanded its investigation to include possible violations of Minnesota Statutes sections 10A.025, 10A.14, 10A.20, and 211B.04, by 1854 and related parties.

On October 17, 2024, Board staff deposed Ms. Lotzer, who explained that 1854 was formed to reduce the likelihood that Brick would be associated with political advertising that may be distasteful to customers or potential customers. She described 1854 as serving as a buffer. Ms. Lotzer stated that while 1854 had a bank account, to her knowledge, 1854 did not have any shareholders, did not generate any profits, did not have directors aside from herself, and did not have employees aside from herself. Ms. Lotzer stated that her compensation from 1854 amounted to a few thousand dollars per year, and that she was employed by Brick prior to and while she was listed as the CEO of 1854. Mr. Olson and Ms. Lotzer both testified that 1854 was formed shortly before Right Now MN registered with the Board, for the purpose of serving as a vendor to Right Now MN. Ms. Lotzer stated that she ceased working for Brick in early 2024.

During her deposition, Ms. Lotzer described 1854 as being virtually non-existent, and instead being almost entirely the same as Brick. Ms. Lotzer expressed her belief that Brick's CEO and chairman, Richard Andolshek, controlled how Right Now MN's money was spent, and that his directives were carried out, in part, by his son, Albin Andolshek. Specifically, Ms. Lotzer stated her belief that Richard Andolshek selected the candidates to be supported or opposed by independent expenditure advertisements paid for by Right Now MN. Ms. Lotzer explained that a consultant, Kip Christianson, was involved in Brick's political advertising and communicated directly with Richard Andolshek. Ms. Lotzer stated that herself and Brick's director of operations, Phillip Morin, were responsible for creating digital advertisements, including political advertisements, based on work assignments entered in a ticketing system.

Mr. Olson previously identified Jennifer O'Donnell as the person who entered Right Now MN's receipts and expenditures within the Board's Campaign Finance Reporter software, and submitted campaign finance reports covering 2022 to the Board with Mr. Olson's electronic signature. Mr. Olson's testimony indicates that Ms. O'Donnell performed those tasks with very little input from Mr. Olson, and that even if Mr. Olson had been more actively involved, he lacked direct access to the financial records necessary to ascertain whether the reports being filed with the Board were accurate or not. Ms. Lotzer stated that Jennifer O'Donnell was an employee of Brick during the same time period as herself.

If Ms. Lotzer's testimony is accurate, Brick and one or more of its executives or employees may have violated the following provisions of Minnesota Statutes chapters 10A and 211B.

Analysis of Statutes Potentially Violated

Minnesota Statutes section 10A.01, subdivision 28, defines the term "political fund" as follows:

"Political fund" means an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or expended to influence the nomination or election of one or more candidates or local candidates or to promote or defeat a ballot question. The term political fund as used in this chapter may also refer to the association acting through its political fund.

An independent expenditure political fund is a type of “political fund that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.” Minn. Stat. § 10A.01, subd. 18b. The term expenditure is defined, in relevant part, to mean “a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or a local candidate or for the purpose of promoting or defeating a ballot question.” Minn. Stat. § 10A.01, subd. 9. In order to make an expenditure seeking to influence the nomination or election of a candidate, it is necessary to know who that candidate is, and in this case, there is reason to believe that Brick may have decided which candidates would be supported or opposed by various independent expenditures, rather than Right Now MN.

Failure to Register

An independent expenditure political fund that exceeds a certain threshold must register with the Board by filing a registration statement. Minn. Stat. § 10A.14, subd. 1a. The registration statement generally must be filed no later than 14 days after the fund has received more than \$1,500 in contributions, or made more than \$1,500 in aggregate independent expenditures, during a calendar year.

If Ms. Lotzer’s testimony is accurate, then Brick may have operated an independent expenditure political fund, funded at least in part by contributions from Right Now MN. If that occurred, Brick may have violated Minnesota Statutes section 10A.14, subdivision 1a, by failing to register an independent expenditure political fund with the Board.

False Certification

Individuals are prohibited from signing or certifying a report to be true “knowing it contains false information or knowing it omits required information.” Minn. Stat. § 10A.025, subd. 2 (b). The Board may impose a civil penalty against an “association that has a political fund that is affiliated with an individual who” falsely certified a report. Minn. Stat. § 10A.025, subd. 2 (e). The original reports of receipts and expenditures filed on behalf of Right Now MN disclosed no independent expenditures in 2022. Even if Brick did not recognize a need to register a political fund with the Board, it appears that it may have directed an employee to file campaign finance reports with the Board, on behalf of Right Now MN. Brick and its executives likely knew that it was disseminating independent expenditure advertisements, and therefore may have known that the campaign finance reports filed by Ms. O’Donnell using Mr. Olson’s electronic signature were highly inaccurate. There may be a basis for finding that Ms. O’Donnell created and certified a report to the Board knowing that the report did not disclose independent expenditures or was otherwise inaccurate or incomplete, and there may be a basis for finding that Brick was operating a political fund that was affiliated with Ms. O’Donnell.

Failure to File Reports

A political fund must file a year-end report of receipts and expenditures covering each calendar year, and up to five additional reports during a general election year, to the extent that the fund has had financial activity since the period covered by its most recent periodic report. Minn. Stat. § 10A.20, subds. 2, 7a. If Brick was required to register an independent expenditure political fund with the Board, then it was also required to file multiple periodic reports covering 2022, and likely other calendar years. Therefore, Brick may have violated Minnesota Statutes section 10A.20, subdivision 2, by failing to file various reports with the Board.

Inaccurate and Insufficient Disclaimers

Minnesota Statutes section 211B.04 generally requires campaign material to contain a disclaimer that identifies the person or campaign committee that paid for and prepared the material. The independent expenditures produced with funds from Right Now MN identified Right Now MN as the responsible committee for the advertisements. However, if Brick decided which candidates would be the subject of the independent expenditure advertisements, then Brick was acting as a political fund, and the disclaimers did not accurately disclose the entity responsible for the advertisements.

Also, Brick appears to have been involved in placing independent expenditure radio advertisements in support of Scott Jensen for Governor. The disclaimer provided within those advertisements did not identify them as an independent expenditure. Under Minnesota Statutes section 211B.04, subdivision 2, paragraph (b), a broadcast disclaimer for an independent expenditure must state: "This independent expenditure is paid for by [name of entity participating in the expenditure]. It is not coordinated with or approved by any candidate, nor is any candidate responsible for it." The disclaimer used in the radio advertisements stated "Paid for by Right Now Minnesota. Not coordinated or approved by any candidate."

Analysis of Need for Expanded Investigation

Expanding the existing formal investigation to investigate possible violations by Brick and its executives or employees is necessary in order to provide the public with a complete understanding of the relationship between Right Now MN, 1854, and Brick, and who made the independent expenditures paid for with funding from Right Now MN. In total, the possible violations could result in significant civil penalties against Brick and various individuals. The investigation will likely involve obtaining statements under oath from Jennifer O'Donnell, Albin Andolshek, and Richard Andolshek. Testimony may also be sought from any other current or former employee or executive of, or contractor for, Brick, that may have knowledge of the content of reports generated for Right Now MN, the process of determining which candidates would be the subject of independent expenditures paid for with funds from Right Now MN, or the relationship between Brick and Right Now MN. Those individuals may include Phillip Morin or Kip Christianson. The Board will also request any documents that explain the process used to

determine which candidates would be the subject of independent expenditures paid for using Right Now MN funds.

Order

1. An expansion of the investigation initiated by the audit of Right Now Minnesota is ordered to include Brick, Inc. and related parties, including Jennifer O'Donnell, Albin Andolshek, and Richard Andolshek, regarding possible violations of Minnesota Statutes sections 10A.025, subdivision 2, 10A.14, subdivision 1a, 10A.20, subdivision 2, and 211B.04.
2. If sufficient information to conclude the investigation is not provided voluntarily, the Board's executive director may issue subpoenas pursuant to Minnesota Statutes section 10A.022, subdivision 2, and Minnesota Rules 4525.0500, subpart 6.



David Asp, Chair
Campaign Finance and Public Disclosure Board

Date: November 6, 2024