

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

ORDER FOR A FORMAL INVESTIGATION

IN THE MATTER OF DENNIS SMITH, JOE REGNIER, AND THE DENNIS SMITH FOR ATTORNEY GENERAL COMMITTEE

Background

Dennis Smith for Attorney General was the principal campaign committee of Dennis Smith. Mr. Smith initially intended to seek the endorsement of the Republican Party of Minnesota in 2022, but decided not to seek the endorsement at the Party's state convention in May 2022. On May 17, 2022, he announced that he would not compete in the primary election, and he did not file to appear on the ballot. Mr. Smith previously served two terms in the Minnesota House of Representatives, from 2015-2018.

The Dennis Smith for Attorney General committee registered with the Board in June 2021. The committee's registration statement was amended in January 2023 to list Joe Regnier as the committee's treasurer. Five of the committee's six periodic reports of receipts and expenditures were signed by the candidate, Mr. Smith. Only the committee's original 2022 year-end report, filed February 1, 2023, was signed by Mr. Regnier. Each report was filed using the Board's Campaign Finance Reporter software.

The committee's original 2022 year-end report, filed February 1, 2023, and signed by Mr. Regnier, included a total of \$663,616.95 in receipts and \$860,437.94 in total expenditures and disbursements, resulting in an ending cash balance of \$42,550.66. Like its original 2022 year-end report, the committee's first amended 2022 year-end report, filed September 27, 2023, and signed by Mr. Smith, included a total of \$663,616.95 in receipts and \$860,437.94 in total expenditures and disbursements, resulting in an ending cash balance of \$42,550.66. That amendment was filed to accurately identify the recipient of a \$15,000 contribution that the Smith committee made to a political committee registered with the Board.

The committee failed to file a 2023 year-end report, which was due January 31, 2024. On that date, Mr. Smith emailed Board staff asking how to amend his committee's 2022 year-end report, and Board staff replied with brief instructions. Mr. Smith left a voicemail for Board staff on March 27, 2024, stating his intention to file an amended 2022 year-end report and "close the account out." Board staff did not have further communication with Mr. Smith regarding the 2022 year-end report until he was notified of a potential investigation by the Board on April 24, 2024.

On April 4, 2024, Mr. Smith signed and filed a second amended 2022 year-end report, labeled as a termination report. The amendment included the same total amount of receipts as the previously filed reports, but included \$902,986.50 in total expenditures and disbursements, rather than \$860,437.94, resulting in an ending cash balance of \$2.10, rather than \$42,550.66. In total,

the second amended report included \$42,548.56 in expenditures and disbursements that were not included within the original or first amended reports. \$27,935.19 of that total consists of expenditures and disbursements that were not itemized within the second amended 2022 year-end report. A total of 52 separate expenditures payable to 33 different vendors totaling \$14,613.37 were itemized for the first time within the second amended report, and 32 of the 33 vendors were not listed at all within the committee's original and first amended 2022 year-end reports.

Aside from \$90.38 in nonitemized miscellaneous income receipts included within the amended 2022 year-end report, there is no indication that equipment or other assets purchased by the Smith committee were sold prior to the committee being dissolved, so it is unclear whether assets with monetary value were retained by Mr. Smith or another member of the committee after the committee's dissolution.

Statutes Potentially Violated

False Certification

The committee filed two separate 2022 year-end reports, over seven months apart, each of which failed to include \$42,548.56 in expenditures and disbursements. The original 2022 year-end report was signed by Mr. Regnier and the first amended 2022 year-end report was signed by Mr. Smith. The amended report filed April 4, 2024, included a total of 52 separate expenditures paid to 33 different vendors that were not itemized within the original and first amended 2022 year-end reports. Mr. Smith signed five of the committee's six reports that were filed with the Board. Mr. Smith had a different principal campaign committee registered with the Board during the period from late 2011 through the end of 2021, which included the period in which he served as a state representative. Considering those factors, the reports filed with the Board indicate that that Mr. Smith and Mr. Regnier violated Minnesota Statutes section 10A.025, subdivision 2, paragraph (b), by falsely certifying the first amended 2022 year-end report, and the original 2022 year-end report, to be complete, true, and correct. That provision provides 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." A knowing violation of that provision by an individual subjects that individual to a civil penalty imposed by the Board of up to \$3,000, and the Board may impose an additional civil penalty of up to \$3,000 on the principal campaign committee affiliated with the violator.

Record keeping and accounting requirements

If Mr. Smith and Mr. Regnier were unaware of \$42,548.56 in expenditures and disbursements made by the committee and believed that the committee had a cash balance at the end of 2022 of \$42,550.66 rather than \$2.10, at the time the reports were signed, then they likely violated the recordkeeping requirements under Minnesota Statutes section 10A.025, subdivision 3, and the accounting requirements under Minnesota Statutes section 10A.13. Minnesota Statutes section 10A.025, subdivision 3, provides that "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.” A knowing violation of that provision by an individual subjects that individual to a civil penalty imposed by the Board of up to \$3,000, and the Board may impose an additional civil penalty of up to \$3,000 on the principal campaign committee affiliated with the violator.

Minnesota Statutes section 10A.13, provides that a treasurer must “keep an account of . . . each expenditure made by the committee . . . together with the date and amount.” A knowing violation of that provision by an individual subjects the individual to a civil penalty imposed by the Board of up to \$1,000.

Reporting

The committee’s 2022 year-end report does not include any itemized miscellaneous income receipts showing that equipment, such as electronics, and other assets purchased by the committee was sold. If the candidate retained possession of committee assets, he will need to either pay the fair market value of the items to the committee, or donate the items to another registered committee or charity. Also, accurate and complete descriptions need to be added for the two expenditures totaling \$3,000 described as “Miscellaneous: need detail,” and an explanation needs to be provided for \$854.18 in “airfare” paid to the candidate.

Analysis

Pursuant to Minnesota Statutes section 10A.022, subdivision 3d, the executive director must submit to the Board a matter “that the board is to consider for the authorization of a formal investigation, other than a matter arising from a filed complaint.” The respondents must be afforded the opportunity to be heard before the Board makes a determination regarding the submission. The respondents must also be sent a notice including a copy of the submission no later than the time the submission is provided to Board members.

When the Board receives a submission from the executive director the Board is required, by Minnesota Rules 4525.0340, subpart 2, to take one of the following actions:

- A. provide guidance and direct the executive director to begin or to continue a staff review;
- B. dismiss the matter without prejudice;
- C. order a formal investigation of the matter; or
- D. issue findings, conclusions, and an order resolving the matter.

“Unless the board directs the executive director to continue an existing staff review, the board’s determination must be made in writing.” Minn. R. 4525.0340, subp. 2.

The Board “must consider the evidence in the executive director's submission and the information and arguments in any statement submitted by the respondent,” and

must consider the type of possible violation; the magnitude of the violation if it is a financial violation; the extent of knowledge or intent of the violator; the benefit of formal findings, conclusions, and orders compared to informal resolution of the matter; the availability of board resources; whether the violation has been remedied; and any other similar factor necessary to decide whether the matter under review warrants a formal investigation.

Minn. R. 4525.0340, subp. 2. “An order for a formal investigation must describe the alleged violations to be investigated, the scope of the investigation, and the discovery methods available for use by the board in the investigation.” Minn. R. 4525.0340, subp. 3.

On April 24, 2024, Board staff notified Mr. Smith and Mr. Regnier and submitted this matter to the Board for authorization of a formal investigation pursuant to Minnesota Statutes section 10A.022, subdivision 3d. The Board considered this matter and Mr. Smith appeared before the Board during its meeting on May 1, 2024. During that meeting the Board ordered a formal investigation. However, no written order was issued as required by Minnesota Rules 4525.0340. The Board again considered this matter at its meeting on June 5, 2024.

Order

1. A formal investigation is ordered regarding possible violations of Minnesota Statutes sections 10A.025, subdivisions 2-3, 10A.13, and 10A.20, subdivision 3, by Dennis Smith, Joe Regnier, and the Dennis Smith for Attorney General committee. The Board anticipates asking Mr. Smith to voluntarily provide additional information and making findings and conclusions on the basis of that information. If sufficient information is not provided voluntarily, the Board's executive director may request authority to issues subpoenas pursuant to Minnesota Statutes section 10A.022, subdivision 2, and Minnesota Rules 4525.0500, subpart 6.

/s/ David Asp
David Asp, Chair
Campaign Finance and Public Disclosure Board

Date: June 5, 2024