

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

**FINDINGS IN THE MATTER OF A COMPLAINT REGARDING THE
MINNESOTA INDIAN GAMING ASSOCIATION AND ANDREW KOZAK**

Procedural Background

On September 26, 2003, David Hoch ("the Complainant") filed a complaint against the Minnesota Indian Gaming Association (#3236) and its president, John P. McCarthy ("Respondent") alleging that the Respondent violated Minnesota Statutes, Chapter 10A.

The Complainant stated that the Minnesota Indian Gaming Association's web site contains a link to, and an informational web page about, the High Stakes Minnesota web site, highstakesmn.org, a web site that encourages Minnesota citizens to contact their legislators to voice their opposition to any expansion of gambling in Minnesota. The High Stakes Minnesota web site is supported by the Prairie Island Indian Community and the Mille Lacs Band of Ojibwe. The Complainant alleged that the Respondent's designated lobbyist failed to disclose the cost of creating and maintaining the link to, and informational web page regarding, the highstakesmn.org web site on the mnindiangaming.com web site.

In support of his complaint, the Complainant provided print-outs from both the Minnesota Indian Gaming web site and the High Stakes Minnesota Web Site. The print-outs showed a link to the highstakesmn.org web site and a web page from the Minnesota Indian Gaming Association web site with information about the highstakes.mn.org web site.

By letters dated September 29, 2003, the Board contacted Andrew Kozak (#141) and William Strusinski (#594), lobbyists for the Minnesota Indian Gaming Association, and afforded them an opportunity to respond. By letter dated October 8, 2003, Mr. Strusinski notified the Board that he was not the designated lobbyist for the Minnesota Indian Gaming Association. On October 14, 2003, Mr. Kozak replied and stated that he was the designated lobbyist for the Minnesota Indian Gaming Association.

By letter dated October 23, 2003, the Board notified John P. McCarthy, Executive Director of the Minnesota Indian Gaming Association of the complaint and afforded Mr. McCarthy an opportunity to respond. Mr. McCarthy responded by letters dated November 15, 2003, and November 18, 2003, and stated that Andrew Kozak was the designated lobbyist for the Association. Mr. McCarthy stated that the link to the highstakesmn.org web site was placed on the mnindiangaming.com web site in April 2003.

This matter was considered by the Board in executive sessions in its meetings on October 22, 2003, and November 19, 2003. The Board's decision was based upon the complaint, the documents provided in support of the complaint, Mr. Kozak's response, Mr. McCarthy's response, Board staff's review of the Minnesota Indian Gaming Association's web site and Board records.

Based on the record before it, the Board issues the following:

EVIDENTIARY FINDINGS

1. Minn. Rules 4511.0100, subp. 1a, defines a "designated lobbyist" as "a lobbyist responsible for reporting the lobbying disbursements of the entity the lobbyist represents."
2. Minn. Rules 4511.0100, subp. 4, defines "lobbyist's disbursements" as "all disbursements for lobbying made by the lobbyist, the lobbyist's employer or employee, or any person or association represented by the lobbyist, but do not include compensation paid to the lobbyist."
3. There is no evidence that Mr. Kozak violated Minn. Stat. 10A.025, subd. 2, by knowingly omitting information about

disbursements on his Lobbyist Disbursement Report for the period covering April 1, 2003, through June 30, 2003.

4. Minn. Stat. 10A.04, subd. 3, requires that an association about whose activities a lobbyist is required to report must provide the information required to the designated lobbyist no later than five days before the prescribed filing date.
5. There is evidence that there has been a link to the highstakesmn.org site on the mnindiangaming.com site since April 2003, and that there was an informational web page on the mnindiangaming.com web site about the highstakesmn.org web site.
6. There is evidence that the cost of placing a link to the highstakesmn.org web site on the mnindiangaming.com web site, and developing the informational web page about the highstakesmn.org web site, should have been disclosed as a lobbying disbursement on Mr. Kozak's Lobbyist Disbursement Report for the period covering April 1, 2003, through June 30, 2003.

Based on the above Statement of the Evidence, the Board makes the following:

FINDINGS CONCERNING PROBABLE CAUSE

1. There is probable cause to believe that the Minnesota Indian Gaming Association violated Minn. Stat. 10A.04, subd. 3, by failing to timely provide the association's designated lobbyist with required information. Minnesota Statutes, Chapter 10A provides no penalty for this violation.
2. There is probable cause to believe that as the designated lobbyist for the association, Mr. Kozak violated Minn. Stat. 10A.04, subd. 4 (b) when he failed to report the disbursements for the link to, and informational web page about, the highstakesmn.org web site on his Lobbyist Disbursement Report for the period covering April 1, 2003, through June 30, 2003.
3. There is no probable cause to believe that Mr. Kozak violated Minn. Stat. 10A.025, subd. 2, by knowingly omitting the information regarding these lobbying disbursements from his Lobbyist Disbursement Report for the period covering April 1, 2003, through June 30, 2003.

Based on the above Findings, the Board issues the following:

ORDER

1. Mr. McCarthy is ordered to determine the cost of placing the link to and creating the informational web page about the highstakesmn.org web site. Mr. McCarthy shall provide this information to Mr. Kozak within five days of receipt of this order.
2. Mr. Kozak is ordered to amend his Lobbyist Disbursement Report for the period covering April 1, 2003, through June 30, 2003, with ten business days of receiving information regarding these disbursements from Mr. McCarthy.
3. The record in this matter and all correspondence is entered into the public record in accordance with Minn. Stat. 10A.02, subd. 11. Board staff shall provide copies to Mr. Hoch, Mr. Kozak, and Mr. McCarthy.

Dated: November 19, 2003

Clyde Miller, Chair

Campaign Finance and Public Disclosure Board