

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

**FINDINGS IN THE MATTER OF A COMPLAINT REGARDING THE REPUBLICAN
PARTY OF MINNESOTA AND RON EIBENSTEINER**

Procedural Background

On February 25, 2005, Martin Conroy (Complainant) filed a complaint with the Campaign Finance and Public Disclosure Board (the Board) against the Republican Party of Minnesota (RPM) and Ron Eibensteiner, Chair of the RPM, alleging that Mr. Eibensteiner and the RPM violated provisions of Minnesota Statutes Chapter 10A.

Specifically, the Complainant made the following two allegations against the RPM and Mr. Eibensteiner:

The Complainant's first allegation is that the RPM listed its expenditures on the 2004 Report of Receipts and Expenditures in chronological rather than alphabetical order. The Complainant stated, "I ask that the [Board] look into this matter to determine if this was done to conceal expenditures for the benefit of the Republican Party Chairman."

The Complainant's second allegation is that expenditures made by the RPM to pay William Mauzy, an attorney who represented Mr. Eibensteiner against a Mower County criminal indictment, were improper and made for the purpose of circumventing provisions of Chapter 10A. The Complainant stated, "I request the [Board] to take the following actions:...Make a determination of the ethics involved in a political party using donor money for the purpose of aiding and abetting the circumvention of Minnesota Law, and specifically,...Make a determination if the Republican Party's actions to use donor money in this manner, on behalf of Mr. Eibensteiner has culpability if it was done for the purpose of aiding and abetting the circumvention of Minnesota law."

The Complainant provided a listing of payments made by the RPM to Mr. Mauzy's law firm in 2004 with his complaint. The complainant did not indicate the specific provision(s) of Minnesota Statutes Chapter 10A circumvented by the RPM or Mr. Eibensteiner.

The Board notified Mr. Eibensteiner and Douglas Kelley, attorney representing the RPM, of the complaint on March 1, 2005. The Board received Mr. Kelley's response on March 15, 2005.

In response to the Complainant's first allegation that the RPM listed expenditures in chronological rather than alphabetical order in order to conceal expenditures Mr. Kelley stated, "Although its contributions were not in alphabetical order, the expenses, while fully disclosed, were reported chronologically. The party used multiple computer software packages to prepare its expenditure report...The net result was full disclosure, albeit not in alphabetical format. There was no intent to hide any expenditures or run afoul of any formatting requirements. The party will endeavor to ensure that all reports filed in the future alphabetize both expenditures and contributions."

In response to the Complainant's second allegation that the RPM's payment of legal fees incurred by Mr. Eibensteiner in responding to charges brought in a Mower County criminal indictment were improper and made for the purpose of circumventing Minnesota law, Mr. Kelley stated, "As a general rule, Minnesota law requires legal entities to indemnify their officers, directors and employees who become parties to legal proceedings as a consequence of their official acts and

omissions.” Mr. Kelley also stated, “The Republican Party of Minnesota is a voluntary association. Mr. Eibensteiner serves as its chairperson. He was criminally indicted for sending a letter, in his capacity as party chair, that allegedly sought an improper corporate campaign contribution.”

In regard to the Complainant’s charge that the RPM attempted to help Mr. Eibensteiner circumvent Minnesota law, Mr. Kelley stated, “In summary, there is no evidence whatsoever to support the complainant’s allegation that the Republican Party aided and abetted any intentional circumvention of Minnesota law.”

The matter was considered by the Board in executive session at its meetings on March 22, 2005. The Board’s decision was based upon the complaint, the response from Mr. Kelley, and records filed with the Board.

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

EVIDENTIARY FINDINGS

1. Minn. Stat. §10A.20, subd. 3 (g), provides that the Report of Receipts and Expenditures must disclose the name and address of each individual or association to whom aggregate expenditures of more than \$100 have been made within the calendar year. The statute does not require that the expenditures be listed in alphabetical order.
2. Minn. Stat. §10A.29, provides that an individual or association that attempts to circumvent the provisions of Chapter 10A by redirecting a contribution through, or making a contribution on behalf of, another individual or association is guilty of a gross misdemeanor.
3. Minn. Stat. §211B.12 provides a list of the legal expenditures that may be made with money collected for a political purpose by a political party. This statute is outside the purview of the Board to interpret or enforce.
4. There is no evidence that the RPM submitted a Report of Receipts and Expenditures in 2004 that failed to meet statutory requirements for disclosing expenditures.

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

FINDINGS CONCERNING PROBABLE CAUSE

1. There is no probable cause to believe that the RPM failed to disclose expenditures as required by Minnesota Statutes Chapter 10A.
2. There is no probable cause to believe that the RPM violated any provision of Minnesota Statutes Chapter 10A when it made expenditures to pay the legal fees of Mr. Eibensteiner.

3. There is no probable cause to believe that the RPM violated the circumvention prohibition contained in Minn. Stat. §10A.29 when it made expenditures to pay the legal fees of Mr. Eibensteiner.

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

ORDER

1. The complaint regarding the alleged violation of Minn. Stat. §10A.20, is dismissed in its entirety.
2. The complaint regarding the alleged violation of Minn. Stat. §10A.29, is dismissed in its entirety.
3. The record in this matter and all correspondence is hereby entered into public record in accordance with Minn. Stat. §10A.02, subd. 11.

Dated: March 22, 2005



Terri Ashmore, Chair
Campaign Finance and Public Disclosure Board