

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

**FINDINGS AND ORDER IN THE MATTER OF
A COMPLAINT FILED AGAINST THE IMMUNIZATION ACTION COALITION**

Facts Used In These Findings

On April 25, 2006, Heather O'Brien ("Complainant") filed a complaint with the Campaign Finance and Public Disclosure Board ("the Board") against Diane C. Peterson and the Immunization Action Coalition ("IAC").

The Complainant alleged that Ms. Peterson lobbied on behalf of the IAC in 2004, 2005, and 2006, but failed to register with the Board as a lobbyist. The Complainant also alleged that the lobbying expenditures by the IAC during each of the three years would require registration and reporting to the Board. The Complainant stated: "At the IAC, Diane Peterson is listed as a Staff Member – Associate Director of Immunization Projects. In addition to crafting e-mails, letters, and newsletters in opposition to efforts to eliminate mercury in vaccines, the IAC, with the apparent lead of Diane Peterson, lobbying effort to train and organize groups to oppose State legislation on thimerosal. Twice in 2005, Diane Peterson testified against the Minnesota SF 639. In 2006, she did not testify, but she organized the opposition and testimony to Minnesota HF 2505."

In support of the allegations the Complainant provided copies of material from the IAC Web Site titled "How to Work With Your State Legislature", copies of letters from Diane Peterson that are in opposition to legislation in the Minnesota legislature, a copy of a slide show titled "Communicating with Your Legislature about Vaccine Safety", and a copy of a document titled "Why Anti-thimerosal Vaccine Legislation in Minnesota is Dangerous to Health".

An individual who either receives over \$3,000 in a year as compensation for lobbying efforts, or who personally spends more than \$250 (not including travel expenses or membership dues) on lobbying efforts must register as a lobbyist. Lobbying includes attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials in Minnesota. An individual who meets the definition of "lobbyist" and who fails to register with the Board is subject to a late fee of up to \$100, and a civil penalty of up to \$1,000.

An association that spends more than \$500 in a year to compensate a lobbyist, or authorizes an expenditure of more than \$500 by a lobbyist, or that spends \$50,000 or more in a year to influence legislative or administrative action, or the official action of a metropolitan governmental unit in Minnesota is a "Principal". Registered lobbyists and lobbyist's Principals are required to file periodic reports with the Board that disclose lobbying disbursements.

By letter dated April 28, 2006, Ms. Peterson and the IAC were notified of the complaint and afforded an opportunity to respond. In a letter dated May 12, 2006, Deborah L. Wexler, Executive Director of the IAC, responded to the complaint on behalf of Ms. Peterson and the IAC.

In response to the allegation that Ms. Peterson failed to register as a lobbyist Ms. Wexler stated: "Diane C. Peterson has been paid by the Immunization Action Coalition for lobbying on the issue of immunization. The portion of her salary received for lobbying did not exceed \$3,000 during any of the years, 2004, 2005, or 2006." In support of this statement, Ms. Wexler provided a listing of the salary paid to Ms. Peterson for Minnesota lobbying activities. The listing shows that Ms. Peterson was paid \$0

for lobbying in the period July 1, 2003 – June 30, 2004, \$1,412.80 in the period July 1, 2004 – June 30, 2005, and \$614.34 in the period July 1, 2005 – April 30, 2006.

In response to the allegation that the IAC qualified as a lobbyist principal Ms. Wexler stated: "IAC did not qualify as a lobbyist principal in any of the years 2004, 2005, or 2006 because (1) it did not engage, compensate, or authorize expenditures by a lobbyist in any of those years, and (2) it spent less than \$50,000 on lobbying activities." In support of this statement, Ms. Wexler provided copies of Part VI-B from the IRS Form 990 filed by the IAC for fiscal years 2003, 2004, and 2005. These schedules show that the IAC's lobbying expenditures (excluding paid staff) were \$751 in 2003, \$910 in 2004, and \$1,578 in 2006. The lobbying expenditure totals included lobbying at the federal, state, and local level.

The Board considered this matter in executive session at its meetings on May 16, 2006, and June 7, 2006. The Board's decision was based on information provided with the complaint, and the response from Ms. Wexler.

Relevant Statutes

1. Minnesota Statutes, section 10A.01, subdivision 21. **Lobbyist.** (a) "Lobbyist" means an individual: (1) engaged for pay or other consideration of more than \$3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or (2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.
2. Minnesota Statutes, section 10A.01, subdivision 33. **Principal.** "Principal" means an individual or association that: (1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or (2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section 10A.04, subdivision 6.
3. Minnesota Statutes, section 10A.03. **Lobbyist registration.** subdivision 1. **First registration.** A lobbyist must file a registration form with the board within five days after becoming a lobbyist or being engaged by a new individual, association, political subdivision, or public higher education system.

Subdivision. 2. **Form.** The board must prescribe a registration form, which must include: (1) the name and address of the lobbyist; (2) the principal place of business of the lobbyist; (3) the name and address of each individual, association, political subdivision, or public higher education system, if any, by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears; and (4) a general description of the subject or subjects on which the lobbyist expects to lobby. If the lobbyist lobbies on behalf of an association, the registration form must include the name and address of the officers and directors of the association.

Subdivision. 3. **Failure to file.** The board must send a notice by certified mail to any lobbyist who fails to file a registration form within five days after becoming a lobbyist. If a lobbyist fails to file a form within ten business days after the notice was sent, the board may

impose a late filing fee of \$5 per day, not to exceed \$100, starting on the 11th day after the notice was sent. The board must send an additional notice by certified mail to a lobbyist who fails to file a form within 14 days after the first notice was sent by the board that the lobbyist may be subject to a civil penalty for failure to file the form. A lobbyist who fails to file a form within seven days after the second notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Based on the above Statement of the Facts and Relevant Statutes, the Board makes the following:

Findings of Probable Cause

1. There is evidence that Diane C. Peterson carried out lobbying efforts on behalf of the IAC in 2004, 2005, and 2006. There is no evidence that Ms. Peterson personally spent more than \$250 on lobbying efforts in 2004, 2005 or 2006. There is evidence that the IAC compensated Ms. Peterson less than \$3,000 for lobbying the Minnesota legislature in 2004, 2005, and 2006. The Board finds that Diane C. Peterson did not need to register as a lobbyist for the IAC in 2004, 2005, or 2006.
2. There is evidence that the IAC expended funds on lobbying efforts in Minnesota in 2004, 2005, and 2006. There is evidence that the IAC did not expend \$50,000 or more on lobbying expenditures in 2004, 2005, or through April 30, 2006. There is evidence that the IAC compensated Ms. Peterson more than \$500 for lobbying activities in the periods July 1, 2004 – June 30, 2005, and July 1, 2005 – April 30, 2006. However, Ms. Peterson did not meet the definition of lobbyist provided in Minnesota Statutes. Therefore the Board finds that the IAC did not meet the definition of Lobbyist Principal in 2004, 2005, or 2006.

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

Order

1. The allegation that Diane C. Peterson failed to register as a lobbyist for the IAC in 2004, 2005, and 2006 is dismissed
2. The allegation that the IAC was a Lobbyist Principal in 2004, 2005, and 2006 is dismissed.
3. The Board's investigation of this matter is hereby made a part of the public records of the Board pursuant to Minnesota Statutes, section 10A.02, subdivision 11. Board staff is directed to forward copies of these Findings to Heather O'Brien, Diane Peterson, and Deborah Wexler.

Dated: June 7, 2006



Bob Milbert, Chair
Campaign Finance and Public Disclosure Board