

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

**FINDINGS AND ORDER IN THE MATTER OF
A COMPLAINT REGARDING THE CARLA NELSON VOLUNTEER COMMITTEE**

Summary of Allegations and Responses

On July 24, 2006, Patrick Stallman (“Complainant”) filed a complaint with the Campaign Finance and Public Disclosure Board (“the Board”) against the (Carla) Nelson Volunteer Committee (“the Committee”).

The Complainant alleged that the Committee either failed to report campaign expenditures on the 2003, 2004, and 2005 Report of Receipts and Expenditures or if the expenditures were reported as non-itemized then the Committee did not pay fair market value for certain services. Specifically, the Complainant alleged that the Committee maintained an Internet site during 2003, 2004, and 2005 but that no expenditures for the hosting of the site are disclosed on the Committee’s reports of Receipts and Expenditures. In the complaint Mr. Stallman states, “If the campaign paid more than a \$100 a year for website hosting, it failed to declare the expenses... If the website hosting services were donated the value of those services should have been declared as a donation in kind ...and as an expenditure...but the Committee failed to do either.” Mr. Stallman further states, “If the Committee paid less than \$100/year for website hosting, the expenses could have been placed under unitemized expenses, but even if all of the ...unitemized expenses...had been for website hosting it is unlikely the campaign was charged fair market value for that service and it should have declared the difference as a donation in kind.”

In support of the allegations the Complainant provided copies of the year-end Report of Receipts and Expenditures submitted by the Committee for the years in question, and a printout of the Internet site <http://www.carlanelson.org/> as it appeared on June 20, 2006.

The printout of the Internet site provided in the complaint states “Website hosting courtesy of MLTGroup.com”. The Committee’s reports for the periods referenced in the complaint do not list MLTGroup as a vendor, and do not identify any vendor for Internet hosting.

By letter dated July 25, 2006, Carla Nelson was notified of the complaint and afforded an opportunity to respond. In a letter dated August 3, 2006, Jerry Zubay, Treasurer, and Jon Eckhoff, Chairperson, responded on behalf of the Committee.

In response to the Complainant’s allegation that the Committee did not report expenditures for the hosting of the Committee website Mr. Zubay and Mr. Eckhoff state, “Our annual expenses for web hosting were less than \$100 per year. ...The reports...correctly list this expense on form B1-CE under “Total Unitemized Expenditures.” The Volunteer Committee complied fully with the reporting requirements.”

In response to the allegation that the Committee did not pay fair market value for the hosting of the Internet site Mr. Zubay and Mr. Eckhoff state, “The...Committee requested hosting services from MLT Group...A fair market price was requested. The...Committee had no reason to question this invoice from a legitimate web hosting company, owned by an industry expert, and believed it to be fair and accurate.” Mr. Zubay and Mr. Eckhoff provided with their response print offs of Internet sites advertising prices for Internet hosting. Referencing the print-offs Mr. Zubay and Mr. Eckhoff state “A search on Google reveals several web hosting companies...showing other options that are even less expensive. ...All researched prices are far below \$100 per year to host a website, and show the...Committee could have actually saved money by moving the site.”

In response to a Board request Mr. Zubay provided copies of the 2005 and 2006 Invoices from MLT Group to the Committee for Internet hosting. Each invoice charged a \$70 yearly fee for hosting services.

Board staff reviewed the MLT Group Internet site and found that the company advertised a rate of \$25 per month for hosting services. To clarify the difference in the published cost to host an Internet site and the amount billed to the Committee, Board staff contacted Mike Pruett, President, MLT Group. By letter received September 6, 2006, Mr. Pruett provided a response to the Board inquiry. In answer to a question on whether MLT Group will provide a lower than advertised rate for hosting services Mr. Pruett states, “...MLT Group frequently negotiates prices both higher and lower depending on the needs of each customer.” In answer to a question on whether the Committee received a lower cost than available to other candidates Mr. Pruett states, “...the Carla Nelson Campaign did not receive a lower hosting cost than the cost available (through negotiation) to any other candidate or association with similar Internet requirements.”

The matter was considered by the Board in executive sessions on August 15 and September 15, 2006. The Board’s decision was based upon the complaint, the responses from Mr. Zubay, Mr. Eckhoff, and Mr. Pruett, and Board records.

Board Analysis

A committee must list (itemize) on a Report of Receipts and Expenditures any vendor from which the committee has purchased in aggregate over \$100 in materials or services during the year. Itemization includes the name of the vendor the vendor’s address, and a description of the item or service purchased. The copies of the invoices provided by the Committee indicate that itemization of the MLT Group as a vendor was not required.

A committee is also required to report the total unitemized amount of expenditures that do not exceed \$100 per vendor. A review of the Committee’s reports discloses unitemized campaign expenditures of \$244.20 in 2003, \$371.75 in 2004, and \$70 in 2005. These amounts are sufficient to account for the hosting costs billed by MLT Group.

If a vendor sells a good or service to a candidate’s committee at a cost lower than that available to any other candidate’s committee the vendor has provided a goods or service at less that fair

market value. The term “fair market value” is defined in Minnesota Rules part 4503.0100, subpart 4, as the amount that an individual would pay to purchase the same or similar services or items on the open market. The difference between the fair market value of an item and the cost paid by a candidate’s committee may be an in-kind donation from the vendor.

The rule does not require that a candidate’s committee must always pay the full advertised price for an item, or that the candidate’s committee may not negotiate with a vendor. If a comparable service is available from other vendors at the same or lower cost there is reason to believe that the cost paid by a candidate’s committee for a service is within the definition of fair market value. Based on the cost of Internet hosting services available from other vendors, and the statement of Mr. Pruett on behalf of MLT Group, the costs charged to the Committee for Internet hosting services were not below fair market value and were available to other candidates with similar requirements.

Relevant Statutes

Minnesota Statutes, section 10A.20, subdivision 3 (g). Contents of report. The report must disclose the name and address of each individual or association to whom aggregate expenditures, including approved expenditures, have been made by or on behalf of the reporting entity within the year in excess of \$100, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office must allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.

Minnesota Rules part 4503.0100, subpart 4. Fair Market Value. “Fair market value” means the amount that an individual would pay to purchase the same or similar service or item on the open market.

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

Findings Of Probable Cause

1. There is no evidence that the Carla Nelson Volunteer Committee was required to itemize payments to MLT Group for Internet hosting services on the Committee’s Report of Receipts and Expenditures. There is no evidence that the Carla Nelson Volunteer Committee failed to report as an unitemized expenditure payments for Internet hosting services in 2003, 2004, and 2005. The Board finds that there is no probable cause to believe that the Carla Nelson Volunteer Committee filed inaccurate Reports of Receipts and Expenditures.

2. There is evidence that the cost paid by the Carla Nelson Volunteer Committee to MLT Group for Internet hosting services is consistent with the price offered by other vendors that provide similar services. There is no evidence that the Carla Nelson Volunteer Committee received a price for the Internet hosting service that was unavailable to other candidates. The Board finds there is probable cause to believe that MLT Group provided Internet services to the Carla Nelson Volunteer Committee at a price consistent with fair market value as defined in Minnesota Rules part 4503.0100, subpart 4.

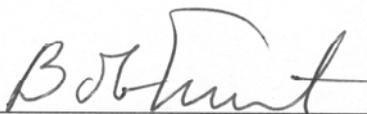
Based on the above Findings, the Board issues the following:

Order

1. The allegation that the Carla Nelson Volunteer Committee failed to report campaign expenditures related to the hosting of the Committee's Internet site is dismissed.
2. The allegation that the Carla Nelson Volunteer Committee received Internet hosting services at less than fair market value is dismissed.
3. The record in this matter and all correspondence is hereby entered into the public record in accordance with Minnesota Statutes, section 10A.02, subd. 11.

Board staff shall provide copies of these Findings to Patrick Stallman, Jerry Zubay, and Jon Eckhoff.

Dated: September 15, 2006



Bob Milbert, Chair
Campaign Finance and Public Disclosure Board