

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

**Findings and Order in the Matter of a Contribution to the MN State Building and
Construction Trades Council Political Fund from the National Association of Letter
Carriers**

Summary of the Facts

In the 2010 Report of Receipts and Expenditures filed with the Campaign Finance and Public Disclosure Board (the Board), the MN State Building & Construction Trades Council Political Fund (the Fund) disclosed receipt of a contribution from the National Association of Letter Carriers on July 22, 2010, in the amount of \$579.21. The National Association of Letter Carriers is not registered with the Board as a political committee or political fund. The National Association of Letter Carriers did not provide provided financial disclosure with the contribution to the Fund. The contribution was not returned within sixty days, and is therefore considered accepted under the provisions of Minnesota Statutes, Section 10A.15, subdivision 3.

Contributions from associations not registered with the Board to registered political committees and political funds are regulated by Minnesota Statutes, Section 10A.27, subdivision 13. This statute provides that candidates, political party units, and political committees or political funds may not accept a contribution in excess of \$100 from an association that is not registered with the Board unless the contribution is accompanied by financial disclosure of the donating association's receipts and expenditures in the form specified by statute. A committee that accepts a contribution in excess of \$100 without the required disclosure is subject to a civil penalty of up to four times the amount in excess of \$100.

An unregistered association that makes a contribution of more than \$100 without the required disclosure is in violation of Minnesota Statutes, Section 10A.27, subdivision 13(b). Failure to provide the appropriate disclosure with a contribution of more than \$100 is punishable by civil penalty of up to \$1,000.

The Board contacted both the Fund and the National Association of Letter Carriers to alert them of the apparent violation and to ask for an explanation of how the contribution occurred. In the correspondence, Board staff asked if the contribution actually came from the PAL 9 National Association of Letter Carriers political committee; which is a political committee registered with the Board.

In a response dated April 13, 2011, Brendan Cummins, legal counsel for the Fund, stated: "The source of the reported funds was the NALC Branch 9 general fund, which is funded by membership dues, not the PAL 9 NALC committee. This would explain why the treasurer of the NALC political committee stated that it did not contribute to the Building Trades political fund."

Mr. Cummins then explained why he believed that acceptance of the contribution was permitted: "This contribution is consistent with applicable law. Minn Stat. Sec. 10A.12, Subd. 5 ("An association may, if not prohibited by other law, deposit in its political fund money derived from dues or membership fees.")"

The Board received a response on May 11, 2011, from Michael Zagaros, president of Branch 9, National Association of Letter Carriers. Mr. Zagaros provided that the contribution was "...the

prorated portion of the cost for a mail piece on absentee voting in the 2010 Minnesota Governor's Primary Election. ...The check was believed to be appropriate and an acceptable use of funds as an Independent Political Expenditure provided that the funds were reported through the MN State Bldg and Construction Trades Council Political Fund." Mr. Zagaros also explained that his association had specifically asked if the contribution was appropriate, and had been reassured that it was acceptable by legal counsel for the Fund

Board Analysis

The belief of legal counsel for the Fund that a political fund may accept a contribution of more than \$100 from an unregistered association without additional disclosure is based on Minnesota Statutes, section 10A.12, subdivision 5. In full the subdivision reads:

Dues or membership fees. An association may, if not prohibited by other law, deposit in its political fund money derived from dues or membership fees. Under section 10A.20, the treasurer of the fund must disclose the name of any member whose dues, membership fees, and contributions deposited in the political fund together exceed \$100 in a year.

This statute provides for the acceptance by a political fund of money derived from dues and membership fees, but only when the membership fees and dues are from the individual members of the association operating the political fund. The second sentence of the subdivision requires the reporting of the names of any member when the member's dues and fees, reach a certain threshold and the moneys are deposited in the political fund. Neither the National Association of Letter Carriers nor its members are members of the MN State Building & Construction Trades Council. Therefore, the contribution in question was not provided for under this provision.

The contribution would not be prohibited by Chapter 10A if it complied with the requirements of Minnesota Statutes, Section 10A.27, subdivision 13. That section provides a mechanism for unregistered associations to contribute funds for use in political campaigns while still maintaining disclosure to the public of the source of those funds.

Based on the information outlined in the above Summary of the Facts and Relevant Statutes, the Board makes the following:

Findings Concerning Probable Cause

1. There is probable cause to believe that the MN State Building & Construction Trades Council Political Fund inadvertently violated Minnesota Statutes, Section 10A.27, subdivision 13, when it accepted a contribution in excess of \$100 from an unregistered association without receiving the appropriate disclosure with the contribution.
2. There is probable cause to believe that National Association of Letter Carriers inadvertently violated Minnesota Statutes, Section 10A.27, subdivision 13 (b), when it made a contribution in excess of \$100 to the MN State Building & Construction Trades Council Political Fund without providing the required disclosure.

3. There is probable cause that the contribution was not returned within 60 days as permitted under Minnesota Statutes, Section 10A.15, subdivision 3.

Based on the above Findings Concerning Probable Cause, the Board issues the following:

ORDER

1. The Board imposes a civil penalty of \$479.21, one times the amount by which the contribution exceeded \$100, on the MN State Building & Construction Trades Council Political Fund for accepting and depositing a contribution from an unregistered association without the disclosure required by Minnesota Statutes, section 10A.27, subdivision 13.
2. The MN State Building & Construction Trades Council Political Fund is directed to refund \$479.21 to the National Association of Letter Carriers.
3. The MN State Building & Construction Trades Council Political Fund is directed to forward to the Board payment of the civil penalty by check or money order payable to the State of Minnesota within thirty days of receipt of this order.
4. The Board imposes a civil penalty of \$479.21, on the National Association of Letter Carriers for making a contribution in excess of \$100 to a political committee without the disclosure required by Minnesota Statutes, section 10A.27, subdivision 13 (b).
5. The National Association of Letter Carriers is directed to forward to the Board payment of the civil penalty by check or money order payable to the State of Minnesota within thirty days of receipt of this order.
6. If the MN State Building & Construction Trades Council Political Fund or the National Association of Letter Carriers does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action for the remedies available under Minnesota Statutes, section 10A.34.
7. The Board 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, and upon payment by the civil penalties imposed herein, this matter is concluded.

Dated: May 31, 2011

/s/ John Scanlon

John Scanlon, Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

10A.12, subdivision 5. Political Funds. Dues or membership fees. An association may, if not prohibited by other law, deposit in its political fund money derived from dues or membership fees. Under section 10A.20, the treasurer of the fund must disclose the name of any member whose dues, membership fees, and contributions deposited in the political fund together exceed \$100 in a year.

10A.27, subdivision 13. Unregistered association limit; statement; penalty. (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$100 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board. This subdivision does not apply when a national political party contributes money to its affiliate in this state.

(b) An unregistered association may provide the written statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which the contribution was made. An unregistered association or an officer of it is subject to a civil penalty imposed by the board of up to \$1,000, if the association or its officer:

(1) fails to provide a written statement as required by this subdivision; or

(2) fails to register after giving the written statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$100 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of \$100.