

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

**Findings and Order in the Matter of the Saint Paul Area Chamber of Commerce PAC**

**Summary of the Facts**

The Saint Paul Area Chamber of Commerce has created and registered with the Campaign Finance and Public Disclosure Board ("the Board") the St Paul Area Chamber of Commerce PAC ("SPACC PAC"). SPACC PAC is registered as a political fund. A political fund may contribute to and make independent expenditures on behalf of candidates for state level office as well as constitutional amendments. The Saint Paul Area Chamber of Commerce has also registered a political committee with Ramsey County under the provisions of Ramsey County ordinances. Registration with Ramsey county is required in order to contribute to and make expenditures on behalf of Ramsey County candidates and ballot issues. The political committee registered with Ramsey County has the same name, officers, and bank depository as the SPAAC PAC.

Pursuant to Minnesota Statutes, Section 10A.27, subdivision 13, candidates, political party units, and political committees registered with the Board 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. On the other hand, committees registered in Ramsey County are permitted under Ramsey County ordinances to make and receive contributions from other Ramsey County committees without providing additional disclosure.

In the 2007 year-end Report of Receipts and Expenditures filed with the Board the SPAAC PAC disclosed receipt of a \$10,000 contribution from the Saint Paul Area Association of Realtors Issue Fund ("SPAAR Fund"). The SPAAR Fund is registered with Ramsey County, but is not registered with the Board. The Board sent letters of inquiry to the SPAAC PAC and SPAAR Fund on April 24, 2008, in order to determine if disclosure was provided with the contribution as required by Minnesota Statutes, Section 10A.27, subdivision 13, and the circumstances under which the contribution was made and accepted.

B. Patrick Ruble, Government Affairs Director of the Saint Paul Area Association of Realtors, responded in a letter dated May 7, 2008, stating "The contribution in question was intended as an "independent expenditure" ... to the Saint Paul Area Chamber of Commerce's PAC for local 2007 council elections in the city of Saint Paul. SPAAR was approached in mid-October 2007 to participate in a multi-media campaign prior to the November 6 Saint Paul city elections. ... At no time during our communication to arrange this contribution, either by telephone, in person or e-mail was it indicated that a disclosure statement needed to accompany this contribution. ...Our association's ...Fund is a local PAC registered with Ramsey County and, as such, file [sic] reports with the Ramsey County Elections Office. "

John A. Knapp, Winthrop and Weinstine, representing the SPAAC PAC, responded by letter dated May 22, 2008. Mr. Knapp states, "Upon investigation, we have determined that at the time of the contribution, the Treasurer of the SPAAC PAC understood the Fund to be "registered." ..."However, there appears to have been a miscommunication in that while the Fund was, in fact, "registered," the registration was filed with Ramsey County but not with the Board." In explaining the disclosure related to the contribution Mr. Knapp further states, "Importantly, the Fund's

contribution to SPAAC PAC was reported on the Fund's filing with Ramsey County...SPACC PAC's receipt of the contribution was reported both to Ramsey County and also to the Board on its year-end reports."

On June 10, 2008, Mr. Knapp and Molly Grove, Vice President of Governmental Relations for the Saint Paul Area Chamber of Commerce, met with Board staff to discuss the issue. Mr. Knapp and Ms. Grove confirmed that one bank account was used for deposits and expenditures made by the SPAAC PAC and the committee by the same name registered in Ramsey County. In the view of Mr. Knapp and Ms. Grove there is only one SPAAC PAC, with dual registration with the Board and Ramsey County required because of the desire of SPAAC PAC to participate in both state and local level elections.

A review of the reports filed by SPAAC PAC with both the Board and Ramsey County shows that the organization appears to have reported all of its financial transactions to each regulatory authority.

Mr. Knapp and Ms. Grove appeared before the Board in Executive session on June 17, 2008, to explain the situation from the view of the SPAAC PAC, and answer questions.

This matter was considered by the Board in executive session at its meeting on June 17, 2008. The Board's decision was based upon correspondence from Mr. Ruble and Mr. Knapp, discussions with Mr. Knapp and Ms. Grove, and Board records.

### **Board Analysis**

The SPAAR Fund was recruited to contribute to SPACC PAC's effort to make independent expenditures on behalf of St. Paul candidates. As a political committee registered in Ramsey County the SPAAR Fund would know that such expenditures could only be made if SPAAC PAC was also registered in Ramsey County, and therefore the contribution would be disclosed and regulated under Ramsey County requirements. There would be no reason for the SPAAR Fund to know that the contribution would also be reported as a contribution to a fund registered with the Board, and therefore subject to contributor disclosure requirements unique to Chapter 10A. In short, the dual registration of SPAAC PAC added a second layer of statutory regulation to transactions with the SPACC PAC; a fact that would not be readily apparent to a Ramsey County committee donor. Additionally, the dual registration created confusion even as to the status of the committee asking for the contribution: was it one committee with dual registration, reporting requirements, and statutory regulation schemes, or was it actually two committees?

In the view of the Board a political committee that is established with a single bank account and treasurer may register and report under two regulatory authorities as long as it reports all transactions to each authority and the committee assumes the responsibility to operate under two sets of regulatory laws. Where one set of governing laws is more stringent than the other, the more stringent law is applicable.

The Board recognizes that the Saint Paul Area Chamber of Commerce could have formed two separate campaign organizations, one with the Board one with Ramsey County, maintaining separate bank accounts and records, and that the transaction with the SPAAR Fund would not violate any regulatory provision if it had been handled in the separate Ramsey County committee. However, this is not the approach the Saint Paul Area Chamber of Commerce took.

The Board also recognizes that a statute that considers a political committee that files disclosure reports with Ramsey County to be an “unregistered association” with respect to the Board may seem arbitrary, particularly where the financial transactions involved are limited to the local level for which both the donor and recipient are registered and report locally. However, under the statutes, the Board must treat political committees as unregistered associations even when the committee files campaign reports with a county or municipality.

As an unregistered association the SPAAR Fund is prohibited from making any contribution of over \$100 to SPAAC PAC, and the SPAAC PAC is prohibited from accepting the contribution, without the disclosure defined in Minnesota Statutes, Section 10A.20. There is no provision to replace the required disclosure with a report that does not meet the requirements of this statute.

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

**Finding Concerning Probable Cause**

1. There is probable cause to believe that the Saint Paul Area Chamber of Commerce PAC violated Minnesota Statutes, section 10A.27, subdivision 13, when it accepted a contribution in excess of \$100 from the Saint Paul Area Association of Realtors Issue Fund, an association not registered with the Board, without receiving the required disclosure.
2. There is probable cause to believe that the contribution was not returned within 60 days as permitted in Minnesota Statutes, section 10A.15, subdivision 3.
3. There is no probable cause to believe that this violation was intentional or done with the intent to circumvent the requirements of Minnesota Statutes, Chapter 10A.

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

**ORDER**

1. The Board directs the Saint Paul Area Chamber of Commerce PAC to return \$9,900, the amount of the contribution over \$100, to the Saint Paul Area Association of Realtors and to provide a copy of the check and accompanying letter returning the contribution to the Board.
2. In view of the unique circumstances on this matter the Board imposes a civil penalty of \$500 on the Saint Paul Area Chamber of Commerce PAC for acceptance of a contribution in excess of \$100 from an unregistered association without the disclosure required by Minnesota Statutes, section 10A.27, subdivision 13.
3. The Saint Paul Area Chamber of Commerce PAC is directed to forward to the Board payment of the civil penalty, by check or money order payable to the State of Minnesota, and the copy of the check and letter used to return the prohibited contribution, within 30 days of receipt of this order

4. If the Saint Paul Area Chamber of Commerce PAC does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action on behalf of the Board for the remedies available under Minnesota Statutes, section 10A.34.
5. The Board investigation of this matter is entered into the public record in accordance with Minnesota Statutes, section 10A.02, subdivision 11. The matter is concluded.

Dated: June 17, 2008



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Sven A. Wehrwein, Chair  
Campaign Finance and Public Disclosure Board

### Relevant Statutes

**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.

### **10A.20 Campaign reports.**

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**Subd. 3. Contents of report.** (a) The report must disclose the amount of liquid assets on hand at the beginning of the reporting period.

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$100 for legislative or statewide candidates or ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds

the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

- (c) The report must disclose the sum of contributions to the reporting entity during the reporting period.
- (d) The report must disclose each loan made or received by the reporting entity within the year in aggregate in excess of \$100, continuously reported until repaid or forgiven, together with the name, address, occupation, and principal place of business, if any, of the lender and any endorser and the date and amount of the loan. If a loan made to the principal campaign committee of a candidate is forgiven or is repaid by an entity other than that principal campaign committee, it must be reported as a contribution for the year in which the loan was made.
- (e) The report must disclose each receipt over \$100 during the reporting period not otherwise listed under paragraphs (b) to (d).
- (f) The report must disclose the sum of all receipts of the reporting entity during the reporting period.
- (g) 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.
- (h) The report must disclose the sum of all expenditures made by or on behalf of the reporting entity during the reporting period.
- (i) The report must disclose the amount and nature of an advance of credit incurred by the reporting entity, continuously reported until paid or forgiven. If an advance of credit incurred by the principal campaign committee of a candidate is forgiven by the creditor or paid by an entity other than that principal campaign committee, it must be reported as a donation in kind for the year in which the advance of credit was made.
- (j) The report must disclose the name and address of each political committee, political fund, principal campaign committee, or party unit to which contributions have been made that aggregate in excess of \$100 within the year and the amount and date of each contribution.
- (k) The report must disclose the sum of all contributions made by the reporting entity during the reporting period.
- (l) The report must disclose the name and address of each individual or association to whom noncampaign disbursements have been made that aggregate in excess of \$100 within the

year by or on behalf of the reporting entity and the amount, date, and purpose of each noncampaign disbursement.

- (m) The report must disclose the sum of all noncampaign disbursements made within the year by or on behalf of the reporting entity.
- (n) The report must disclose the name and address of a nonprofit corporation that provides administrative assistance to a political committee or political fund as authorized by section 211B.15, subdivision 17, the type of administrative assistance provided, and the aggregate fair market value of each type of assistance provided to the political committee or political fund during the reporting period.