

Minnesota

Campaign Finance and Public Disclosure Board Meeting

Wednesday, June 3, 2020
10:30 A.M.
Conducted remotely via Webex due to COVID-19 pandemic

REGULAR SESSION AGENDA

1. Approval of Minutes
 - a. May 6, 2020
2. Chair's Report
 - a. 2020 Meeting schedule
3. Executive director report
4. Enforcement report
5. Advisory Opinion Request 453 – Podcast as a Constituent Service
6. Legal report
7. Other business

EXECUTIVE SESSION

Immediately following regular session

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

.....
May 6, 2020

Meeting conducted remotely though WebEx due to COVID-19 pandemic

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MINUTES

The meeting was called to order by Chair Moilanen.

Members present: Flynn, Haugen, Leppik, Moilanen, Rosen, Swanson

Others present: Sigurdson, Engelhardt, Olson, Pope, staff; Hartshorn, counsel

MINUTES (March 6, 2020)

After discussion, the following motion was made:

Member Haugen's motion:

To approve the March 6, 2020, minutes as drafted.

Vote on motion:

A roll call vote was taken. All members voted in the affirmative.

CHAIR'S REPORT

A. 2020 meeting schedule

The next Board meeting is scheduled for 10:30 a.m. on Wednesday, June 3, 2020.

EXECUTIVE DIRECTOR REPORT

Mr. Sigurdson told members that the legislature was very unlikely to take up any Board confirmations during the remainder of the current session. Consequently, the terms of Members Moilanen and Flynn would end on May 18, 2020, because their confirmations needed to occur before the legislature adjourned sine die. Mr. Sigurdson said that the Governor had not made appointments to fill the seats currently held by Members Leppik and Swanson. The appointments of Members Leppik and Swanson ended on January 1, 2020, but by statute they could continue to serve until July 1, 2020. Mr. Sigurdson stated that he had been in communication with the Governor's office to explain that the Board would not have a quorum if appointments were not made relatively soon after the session ended.

Mr. Sigurdson next addressed the effects of the COVID-19 situation on office operations. Mr. Sigurdson said that in-person training had been suspended but that staff had updated the online training resources and was exploring the idea of conducting training remotely. Mr. Sigurdson also stated that given the number of reports coming up and the difficulty of mailing and collecting those reports remotely, he had asked for, and had received, a waiver that would allow additional staff to work in the Board's office. Mr. Sigurdson said that the waiver required the Board to develop a plan

describing the social distancing and other safety measures that would be in place when the office reopened. Mr. Sigurdson said that most staff members would continue to work remotely.

REVIEW OF LOBBYING REGULATIONS FROM OTHER STATES

Mr. Olson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Chair Moilanen said that when the Board was considering its legislative proposals, the Minnesota Governmental Relations Council (MGRC) said that it was going to look into lobbying regulations in other states. Chair Moilanen stated that this was a good idea and that he had asked Mr. Olson to do a similar review. Mr. Olson then gave a high-level overview of the information in the memorandum, including the general registration thresholds and reporting requirements in other states. Mr. Olson said that unlike Minnesota, many states require lobbyists to report the topics or numbers of the bills on which they lobbied. When Mr. Olson finished the overview, Chair Moilanen said that the memo provided food for thought as the Board develops its 2021 legislative proposals.

REVIEW OF RELEVANT COURT DECISION – ELSTER V. CITY OF SEATTLE

Mr. Olson provided members with a memorandum regarding this topic that is attached to and made a part of these minutes. Mr. Olson told members that *Elster v. City of Seattle* concerned public financing of city elections in Seattle through vouchers. Mr. Olson reviewed the structure of the public financing scheme and stated that it had been challenged on First Amendment grounds with the argument that the system compelled speech. Mr. Olson said that challenge had been rejected by the appellate court and that the Supreme Court had denied review. Mr. Sigurdson told members that he had been approached about a voucher system in Minnesota by legislators who did not think that the current public subsidy system was meeting the state's needs.

ENFORCEMENT REPORT

A. Consent items

1. Administrative termination of lobbyist Sarah Leistico (4566)

Mr. Olson told members that Growth & Justice had requested that the lobbyist registration of Ms. Leistico be terminated effective November 1, 2019, as she no longer was employed by that principal. Ms. Leistico was asked to file a termination statement but had not done so. Mr. Olson said that Board staff had administratively terminated Ms. Leistico's lobbyist registration effective November 1, 2019. A reporting lobbyist for the same principal filed disbursement reports inclusive of Ms. Leistico for both reporting periods in 2019.

2. Withdrawal of lobbyist registration of Erin Buie (3278) on behalf of three principals

Mr. Olson told members that Ms. Buie had registered as a lobbyist on behalf of three principals including the National Basketball Association (3552), the PGA Tour, Inc. (7466), and Major League Baseball (7458), in January 2020. Mr. Olson said that Ms. Buie was unaware that those entities had

decided not to retain the services of her employer in 2020 and she was asking that her registration as a lobbyist for those three principals be withdrawn.

After discussion, the following motion was made:

Member Leppik's motion:	To approve the items on the consent agenda.
Vote on motion:	A roll call vote was taken. All members voted in the affirmative.

B. Discussion Items

1. **Request to terminate four lobbyists retroactive to end of 2018 and withdraw one lobbyist registration on behalf of the Minnesota Association of County Social Services Administrators (MACSSA) (4036), and register five lobbyists retroactive to early 2019 on behalf of the Association of Minnesota Counties (AMC) (61)**

Mr. Olson told members that MACSSA's designated/reporting lobbyist had explained that it is an affiliate of another principal, the AMC. The two principals decided that after 2018, the four lobbyists registered on behalf of MACSSA, all of whom are employed by Goff Public, should terminate their registrations for MACSSA and instead register as lobbyists for the AMC, which already had multiple registered lobbyists. Due to miscommunication between MACSSA and Goff Public, the required termination and registration forms were not filed with the Board until April 2020, and in the meantime a fifth lobbyist registered on behalf of MACSSA effective January 7, 2019. MACSSA's designated/reporting lobbyist timely filed lobbyist disbursement reports covering each reporting period in 2019 reflecting that no lobbyist disbursements were made by herself or any of the other four individuals registered as lobbyists for MACSSA. However, MACSSA did not file a 2019 lobbyist principal report. The AMC's annual report of lobbyist principal covering 2019 was inclusive of lobbying expenditures related to the lobbyists registered for MACSSA and AMC. Mr. Olson said that if approved, the requests outlined below would eliminate the requirement that MACSSA file a report of lobbyist principal covering 2019, as the lobbying expenditures in question had already been reported by the AMC. If approved, these requests would also require that MACSSA's reporting lobbyist file two lobbyist disbursement reports covering 2019 as a representative of the AMC, while the lobbyist disbursement reports covering 2019 filed as a representative of MACSSA would be withdrawn. Mr. Olson said that the requested retroactive terminations and registrations, and one withdrawal of registration, were as follows:

- Elizabeth Emerson (2088), Chris Georgacas (4002), Andrew Hasek (4447), and Pierre Willette (1093) – terminate MACSSA registration effective 12/31/2018 and register as lobbyist for AMC effective 1/1/2019.
- Kevion Ellis (4476) – Withdraw MACSSA registration and register as lobbyist for AMC effective 1/7/2019.

After discussion, the following motion was made:

Member Haugen’s motion: To approve the lobbyist terminations and registrations outlined in discussion item 1.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

2. Request to refer matter to the Attorney General’s Office – Minnesota Gun Owners Political Action Committee (MNGOPAC) (41109)

Mr. Olson told members that staff was withdrawing this item because the MNGOPAC had contacted him and said that it was sending a check to the Board for the outstanding amounts.

C. Waiver requests

Name of Candidate or Committee	Late Fee & Civil Penalty Amount	Reason for Fine	Factors for waiver and recommended action	Board Member’s Motion	Motion	Vote on Motion
Tim Peterson (Sunrise River WMO)	\$185 LFFs \$800 CP	Original & 2019 annual EIS	Official was appointed in 1/2019 but Board staff was not notified until 8/2019. Address provided to Board staff by WMO was incorrect so official never received mailed notices regarding EIS. After Board staff found a telephone number for official, corrected address, and mailed paper form, EIS was promptly filed. Original EIS was due 10/18/2019 and an EIS was filed 3/5/2020, satisfying the original and 2019 annual EIS requirements. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Wei Huang (Investment Advisory Council)	\$100 LFF	2018 annual EIS	Official resigned from IAC and moved out of state in 11/2018. He didn’t receive notice regarding annual EIS at new address until 3/2019. The EIS was due 1/28/2019 and was filed 3/11/2019. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.

<p>Lisa Eder (Crime Victims Reparations Board)</p>	<p>\$155 LFFs \$1,000 CP</p>	<p>2018 and 2019 annual EIS</p>	<p>Official retired from her job in 11/2018 but remained a public official until mid-2019. Board staff only had work mailing and email address on file and she did not receive notifications regarding 2018 or 2019 annual. Board staff obtained home address and mailed letter in 2/2020. EISs were received 2/26/2020. EISs were due 1/27/2019 and 1/29/2020. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>Larry Scherger (Dodge SWCD)</p>	<p>\$100 LFF</p>	<p>2017 annual EIS</p>	<p>Official had difficulty logging into Board website to file EIS. EIS was due 1/29/2018 and was filed 3/19/2018. Official sent email explaining issue in 2018 and thought late fee had been waived. His 2018 and 2019 annual EISs were timely filed. Due to staff error, after 2017 EIS was filed a letter was not sent regarding balance owed until 3/2020. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>Mark McWalter (West Polk SWCD)</p>	<p>\$100 LFF \$1,000 CP</p>	<p>2017 annual EIS</p>	<p>EIS was due 1/29/2018 and was filed 9/13/2018. It is unclear why EIS was filed late, but 2018 and 2019 annual EISs were timely filed. Due to staff error, after 2017 EIS was filed a letter was not sent regarding balance owed until 3/2020. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>Alliant Energy Corporation (307)</p>	<p>\$25 LFF</p>	<p>2019 lobbyist principal</p>	<p>Principal's Public & Community Affairs Coordinator was delayed in retrieving her work computer and then was unable to file report on due date, 3/16/2020, due to a variety of issues related to COVID-19 pandemic. Report was filed 3/17/2020. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

eco Hair Braider Association LLC (7345)	\$475 LFF	2019 lobbyist principal	Principal's sole lobbyist mistakenly filed amended lobbyist disbursement report, rather than lobbyist principal report, on due date, 3/16/2020. After realizing error, lobbyist principal report was filed 4/11/2020, disclosing \$0 in lobbying expenditures in 2019. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
SEIU Healthcare Minnesota (5345)	\$575 LFF	2019 lobbyist principal	Principal's political director was away from office without access to mail due to COVID-19. He contacted Board staff 3/30/2020 to ask if he failed to file lobbying report but there was a miscommunication as the same organization has a political fund that had a campaign finance report coming due. Report was due 3/16/2020 and was filed 4/16/2020. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Minnesota Nurses Association (552)	\$25 LFF	2019 lobbyist principal	Principal's political director was busy preparing to have all staff start working from home due to COVID-19 in days leading up to due date. Report was due 3/16/2020 and was filed 3/17/2020. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Northwest Evaluation Association (6217)	\$525 LFF	2019 lobbyist principal	Principal's risk and safety manager was busy preparing to have staff start working remotely due to COVID-19 in days leading up to due date. Report was due 3/16/2020 and was filed 4/14/2020. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Goodhue Pioneer Trail Association (7125)	\$25 LFF	2019 lobbyist principal	Principal's co-chair was busy trying to keep her small business alive when report came due. Principal disclosed \$0 in lobbying expenditures in 2019 and it no longer has a registered lobbyist. Report was due 3/16/2020 and was filed	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.

			3/17/2020. RECOMMENDED ACTION: Waive			
SMART-TD-MN PAC (30019)	\$25 LFF	2020 1st quarter	Treasurer attempted to email report to Board staff on due date but email was not sent. Treasurer was using remote access software to connect to his computer and realized email did not go through the following morning. Report was due 4/14/2020 and was filed 4/15/2020. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Southeast Metro Business PAC (40746)	\$25 LFF	2020 1st quarter	Treasurer planned to go into office on due date on 4/14/2020 to scan and send paper no-change statement, but she was unable to do so until following day due to COVID-19 related issues. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
PROGRESSPPAC (40975)	\$600 LFF	2019 year-end	Treasurer died in September 2019 and notices regarding report were sent to him. Chair wasn't aware that committee remained active until contacted by Board staff, at which point he filed report. Report was due 1/31/2020 and was filed 3/6/2020. The committee's 2019 ending cash balance was \$7,708. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Cohen (Richard) Volunteer Committee (11829)	\$475 LFF	2019 year-end	Treasurer didn't start working on report until late January due to illness. Candidate was out of town during parts of December and January and his brother passed away in early January, limiting candidate's ability to spend time working on report. Report was due 1/31/2020 and was filed 3/1/2020. Committee's 2019 ending cash balance was \$32,124. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Pine County DFL (HD 11B) (20126)	\$525 LFF	2019 year-end	Treasurer was receiving medical treatment when report was due 1/31/2020.	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All

			Report was filed 3/1/2020. Party unit's 2019 ending cash balance was \$1,594. RECOMMENDED ACTION: Waive			members voted in the affirmative.
Pine County DFL (HD 11B) (20126)	\$1,000 LFF \$1,000 CP	2018 pre-general	New treasurer did not understand the difference between pre-primary and pre-general report and didn't realize that this report needed to be filed. Report was due 10/29/2018 and was filed 3/10/2020. The 2018 year-end report was filed on time. RECOMMENDED ACTION: Waive CP and reduce LFF to \$500	Member Flynn	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Committee of Thirteen Legislative Fund (40045)	\$150 LFF	2020 1st quarter	Committee changed treasurers in 2019 and there were a multitude of issues with original 2019 year-end report. It took some time for new treasurer to sort out those issues with CFB staff and with members of committee itself, in part due to disruptions caused by COVID-19 pandemic. That delayed treasurer's efforts to complete and file the 2020 1st quarter report. The report was due 4/14/2020 and was received 4/22/2020. The committee reported a cash balance of \$23,365 as of 3/31/2020. RECOMMENDED ACTION: Reduce LFF to \$75.	Member Flynn	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.
Minnesota Muskie & Pike Alliance Legislative Fund (80028)	\$1,000 LFF	2019 year-end	Treasurer mailed paper report prior to deadline but Board staff do not have a record of receiving it. Because filer is a fund that is not required to file a report in the absence of financial activity, Board staff did not know filer was required to file the report. Treasurer realized report due 1/31/2020 was never received and filed the report electronically 4/15/2020. The fund reported a cash balance of \$2,298 as of 3/31/2020. RECOMMENDED ACTION: Reduce LFF to \$250	Member Flynn	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.

<p>Neighbors for Ruben (Vazquez) (17912)</p>	<p>\$1,575 LFFs \$1,000 CP</p>	<p>2018 & 2019 year-end</p>	<p>Candidate experienced family/personal issues that he states made him unable to submit reports on time. 2018 year-end report was due 1/31/2019 and was filed 6/24/2019, resulting in maximum LFF and CP. 2019 year-end report was due 1/31/2020 and was filed 3/5/2020, resulting in LFF of \$575. The committee has a cash balance of \$1,095 and is proposing to pay that amount, have remainder waived, and then terminate. RECOMMENDED ACTION: Waive CP and reduce LFFs to total of \$1,095 conditioned on committee terminating within 30 days</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>YWCA of Minneapolis (5052)</p>	<p>\$1,000 LFF \$1,000 CP</p>	<p>2018 lobbyist principal</p>	<p>Designated lobbyist experienced family/personal issues that he states made him unable to submit the report on time. Report was due 3/15/2019 and was filed 6/24/2019. Principal disclosed \$44,600 spent on lobbying in 2018. The 2019 report was timely filed. RECOMMENDED ACTION: Waive CP and reduce LFF to \$500</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>Roque Diaz (Perpich Center for Arts Education)</p>	<p>\$100 LFF</p>	<p>Original EIS</p>	<p>Official was appointed in November 2018. The EIS was due 1/28/2019 and was filed 3/28/2019. Official states that payment of the fee would cause economic hardship. RECOMMENDED ACTION: Reduce LFF to \$50</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>School Lunch Bunch (30341)</p>	<p>\$1,000 LFF</p>	<p>2018 year-end</p>	<p>Treasurer states failure to timely file report was honest mistake and LFF would cause financial hardship. Report disclosed \$2,044 in receipts and \$1,050 in outgoing contributions in 2018. The report was due 1/31/2019 and was filed 11/21/2019. The fund reported a cash balance of \$356 as of 3/31/2020. The</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

			2019 year-end report was timely filed. RECOMMENDED ACTION: Reduce LFF to \$500			
Mahlstedt (Dean) for Senate (16980)	\$25 LFF	2019 year-end	Treasurer states candidate "was going through some medical issues which ended up with a stroke." The report was due 1/31/2020 and a no-change statement was received via email 2/3/2020. According to videos posted by candidate to his Facebook page, the issues that were diagnosed as a stroke began weeks after report was due. Treasurer has not responded to two emails seeking clarification. The committee has filed a no-change statement each year since 2011 and reported a 2019 ending cash balance of \$457.	No motion.		

D. Informational Items

1. Payment of late filing fee for 2019 year-end report of receipts and expenditures

Anderson (Sarah) Volunteer Committee, \$175
 New Moose, \$25

2. Payment of late filing fee for lobbyist disbursement report due 1/15/2020

Chris Conroy, \$125
 Steve Peterson, \$25
 Phillip Qualy, \$50
 John-Paul Yates, \$350

3. Payment of late filing fee for lobbyist principal report due 3/15/2017

Woodbury Capital LLC, \$50

4. Payment of late filing fee for 2019 annual EIS

Scott Klein, \$10

5. Payment of late filing fee for 2017 annual EIS

Tony Wensloff, \$100

6. Payment of late filing fee for original EIS

Catherine Cesnik, \$100
Scott Klein, \$100

7. Payment of late filing fee for special election pre-general 24-hour notice

Friends of Chad Hobot, \$50

8. Payment of civil penalty for disclaimer violation

Funk (Thomas) for Senate, \$100

9. Partial payment of civil penalty for spending limit violation

Doug Wardlow for Attorney General, \$100

ADVISORY OPINION REQUEST

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that on April 27, 2020, the Board had received a request for an advisory opinion regarding the development and reporting requirements for a podcast. Mr. Sigurdson said that the requestor intended to sign the release making the request a public document but had not done so as of the date of the meeting. Mr. Sigurdson stated that because the request was received two days before the Board mailing there was not enough time to prepare a draft advisory opinion for consideration at the May meeting. Mr. Sigurdson said that the matter would have to be formally laid over to the June 3, 2020, meeting because Minnesota Statutes section 10A.02, subdivision 12, requires advisory opinions to be issued within 30 days after receipt unless a majority of the Board agreed to extend this time limit.

After discussion, the following motion was made:

Member Leppik's motion:

To lay the advisory opinion request over to the June meeting.

Vote on motion:

A roll call vote was taken. All members voted in the affirmative.

LEGAL COUNSEL'S REPORT

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn had nothing to add to the legal report.

OTHER BUSINESS

There was no other business to report.

EXECUTIVE SESSION

The chair recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair had the following to report into regular session:

Probable cause determination in the matter of Best Fair Foods

Probable cause determination in the matter of Jennings (Adam) for State Senate

Order extending audit deadline in the matter of the HRCC

There being no other business, the meeting was adjourned by the chair.

Respectfully submitted,

Jeff Sigurdson
Executive Director

Attachments:

Review of lobbying regulations from other states that differ from Chapter 10A

Review of relevant court decisions – Elster v. City of Seattle

Memorandum regarding Advisory Opinion 453

Legal report

Probable cause determination in the matter of Best Fair Foods

Probable cause determination in the matter of Jennings (Adam) for State Senate

Order extending audit deadline in the matter of the HRCC



MINNESOTA

CAMPAIGN FINANCE BOARD

Board Meeting Dates for Calendar Year 2020

Meetings are at **10:30 A.M.** unless otherwise noted.

2020

Wednesday, July 1

Wednesday, August 5

Wednesday, September 2

Wednesday, October 7

Wednesday, November 4

Wednesday, December 2



MINNESOTA CAMPAIGN FINANCE BOARD

Date: May 27, 2020

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Executive Director's Report

Board Member Appointments

Any action of the Board requires at least four concurrent votes. Therefore, a quorum of four members is needed for the Board to meet for any reason other than an informational hearing. At the June 3, 2020, Board meeting the minimum of four Board members will be available. Former members Bob Moilanen and Carol Flynn were appointed to four-year terms by Governor Walz in July of 2019. Board members must be confirmed by both bodies of the legislature by the forty-fifth legislative day after appointment or by adjournment sine die, whichever occurs first. A confirmation hearing for Mr. Moilanen and Ms. Flynn was scheduled in the House, but was cancelled due to the pandemic. Therefore, when the legislature adjourned sine die on May 18 the appointments for Mr. Moilanen and Ms. Flynn lapsed. The positions held by Mr. Moilanen and Ms. Flynn will be published as open by the Secretary of State on June 1, 2020. The period for application for the positions must be open at least 25 days, with the process of appointment taking at least another 10 days after the close of the minimum application period.

The Board's ability to have a quorum of members is further complicated by the expiring terms of Members Swanson and Leppik. The appointments for Members Swanson and Leppik expired on January 6, 2020. However, a member may continue to serve with an expired term until July 1, if a replacement has not been appointed. Unless Members Swanson and Leppik are reappointed, or new members appointed for their positions, before July 1, 2020, the Board will cease to have a quorum.

I have been in communication with the Governor's office on the inability of the Board to meet without a quorum, and they are aware of the urgent need to move forward with Board appointments.

Board Operations - Reporting Periods

Notices of the need to file the 2nd Report of Receipts and Expenditures were sent to 342 political committees, political funds, and political party state central committees and legislative caucuses on May 18, 2020. The reports are due on June 15, 2020.

Notices of the need to file the 1st Lobbyist Disbursement Report for 2020 were sent to 818 lobbyists on May 15, 2020. This report is also due on June 15, 2020.

The candidate filing period for 2020 opened on May 19, and closes on June 2, 2020. Candidates who file for state level office are provided a filing packet from the Board with information and forms needed to register a committee, sign the public subsidy agreement, and file an Economic Interest Statement (EIS). Staff prepared and mailed 1,100 packets to filing officers throughout the state. An EIS statement must be filed by all candidates for state level office, both incumbents and challengers, within 14 days of filing an affidavit of candidacy. EIS statements filed by candidates are available for review on the Board's website.

Impact of COVID-19

The Board offices remain closed to the public, as does the Centennial Office Building. Most staff continue to work from home as directed by the Governor for services that are not considered essential. However, the Board has been granted exceptions from the general order to work from home in order to process mail and payments received, send out and process reports, and conduct remote meetings (currently WebEx). In practice this means that on most days there is one person working in the office. On only one occasion has there been two staff in the office on the same day since the pandemic closed state offices. The Department of Administration has installed a sneeze guard at the front counter in the Board's office, and has provided additional cleaning supplies. My expectation is that the Board's office will reopen this summer in conjunction with the opening of the Centennial Office Building. However, I expect that staffing will remain limited even when the building opens, with most staff working from home for the foreseeable future.

Guidance on notice required when selling items to raise money for a political purpose.

The Board issued a probable cause determination dismissing the complaint by Andrew Schmitz regarding the Best Fair Foods political fund at the May 6, 2020, meeting. The complaint alleged that Best Fair Foods did not comply with the requirements of Minnesota Statutes section 10A.271. This statute requires that either written or verbal notice be given to individuals who purchase an item that is sold to raise funds for a political purpose. The notice informs the buyer that the funds from the purchase will go to a political committee.

At the May 6, 2020, meeting the Board instructed staff to develop guidance for committees trying to comply with the provisions of Minnesota Statutes section 10A.271, and to bring the guidance back for Board review. A draft of the requested guidance is attached to this report.



Notice required when selling things to raise money for political purposes

Minnesota Campaign Finance and Public Disclosure Board

Candidates, political parties, and political committees and funds often sell things, such as t-shirts or hats, to raise money to spend on elections. The entire amount paid for an item is a contribution from the purchaser to the candidate, party unit, committee, or fund selling the item.

Notice must be given to the purchaser at the time of the sale that the purchase is a political contribution. This sheet describes the notice that must be given.

What must the notice say? The notice must tell the purchaser that the proceeds from the sale are a political contribution and the full name of the candidate committee, party unit, or political committee or fund to whom the contribution is being made.

How must the notice be given? The notice must be given verbally at the time of sale or through the prominent display of a written notice in immediate proximity to the point of sale.

What is immediate proximity to the point of sale? Immediate proximity to the point of sale means next to every cash register or location where the item can be purchased. On websites, the notice should be placed on the payment screen.

What is prominent display? The law establishing the notice requirement does not define prominent display or set a minimum type size that will always satisfy that requirement. In addition, given the many types of locations where fundraising merchandise is sold, it is not possible to establish specific recommendations that will be appropriate in every situation. But the purpose of the prominent display requirement is to ensure that the purchaser knows at the time of the sale that he or she is making a political contribution. Following the recommendations below for written notices will help to ensure that they are prominent enough to achieve that purpose.

- Put the notice on its own sheet of paper.
- Put the title “Notice to Purchasers – Political Contribution” at the top of the notice page.
- The font size for the notice text should be as large as, or larger than, the font size used on most other signs in the vicinity.
- Putting the notice in bold type face is encouraged.
- Set up websites to require purchasers to acknowledge the notice as part of the payment process.

Are there any exceptions to the notice requirement? The notice does not have to be given at fund-raising events that require the purchase of a ticket to attend or at events where the main purpose is to conduct fundraising.

Remember: Because the entire amount paid for the merchandise is a contribution, the purchaser’s name and address must be obtained for any purchases over \$20. For any purchases over \$200, the purchaser’s employer (or occupation if no employer) and Board registration number (if registered), must also be obtained.



MINNESOTA CAMPAIGN FINANCE BOARD

Date: May 27, 2020

To: Board members
Counsel Hartshorn

From: Andrew Olson, Legal/Management Analyst

Subject: Enforcement report for consideration at the June 3, 2020 Board meeting

A. Consent Items

- Request to terminate lobbyist registration of Jake Loesch retroactive to end of 2018 on behalf of the Minnesota Association of County Social Services Administrators (MACSSA) (4036), and register Mr. Loesch retroactive to beginning of 2019 on behalf of the Association of Minnesota Counties (AMC) (61)**

At its May 2020 meeting the Board approved retroactive changes to the lobbyist registrations of five lobbyists who should have been registered as lobbyists for the Association of Minnesota Counties (AMC) as of early 2019 rather than the Minnesota Association of County Social Services Administrators MACSSA. When making those changes Board staff realized that a former lobbyist, Jake Loesch (3270), should have been included in the request considered by the Board. Like the other lobbyists Mr. Loesch was employed by Goff Public and should have been terminated as lobbyist for MACSSA as of the end of 2018 and registered as a lobbyist for the AMC instead as of the beginning of 2019. Because the request with respect to Mr. Loesch is the same as the request approved by the Board at its May 2020 meeting, and because it was necessary in order to allow a reporting lobbyist to file the disbursement reports necessitated by the changes approved by the Board, staff made Mr. Loesch's termination as a lobbyist for MACSSA retroactive to 12/31/2018 and registered Mr. Loesch as a lobbyist for the AMC for the period from 1/1/2019 through 2/22/2019. Mr. Loesch ceased being a lobbyist in February of 2019.

B. Waiver Requests

#	Committee/ Entity	Late Fee/ Civil Penalty	Report Due	Factors	Prior Waivers	Recommended Action
1	Karen Francois (DEED)	\$100 LFF \$1,000 CP	2018 Annual EIS	Official left DEED in April 2018. Board staff only had her former work contact information on file so she did not receive notifications regarding the annual EIS. Board staff found current contact information for the official in late December of 2019. The EIS was due 1/28/2019 and was filed 1/13/2020.	No	Waive

2	CPC LLC (Community Partnership Collaborative) (7525)	\$325 LFF	2019 Lobbyist Principal	Principal's sole lobbyist mistakenly filed an amended lobbyist disbursement report 3/12/2020 rather than the lobbyist principal report that was due 3/16/2020. After the error was discovered the principal report was filed on 4/2/2020.	No	Waive
3	MN Professional Fire Fighters (1210)	\$575 LFF	2019 Lobbyist Principal	Principal's designated lobbyist mistakenly filed an amended lobbyist disbursement report on the due date 3/16/2020 rather than filing the lobbyist principal report. After the error was discovered the principal report was filed on 4/16/2020.	No	Waive
4	AFSCME Council 5 (900)	\$525 LFF	2019 Lobbyist Principal	Principal's operations were disrupted because it closed its offices suddenly due to a suspected case of COVID-19. Principal had just begun transitioning to having staff work remotely when the report came due 3/16/2020. The report was filed 4/14/2020.	No	Waive
5	Minnesota TruckPAC (40756)	\$25 LFF	2020 1st Quarter	Employee of association that operates this committee was busy with an increased workload due to COVID-19 and mistakenly filed the report one day late. The cash balance as of 3/31/2020 was \$25,370.	\$2,000 in LFFs for 24-hour notices reduced to \$250 in Oct. 2012 due to software issue	Waive
6	Minneapolis Regional Labor Federation (30011)	\$75 LFF	2020 1st Quarter	Association that operates this political fund and IE committee was dealing with disruptions caused by COVID-19 including having staff work remotely when the reports came due on 4/14/2020. The reports were filed 4/17/2020 and 4/15/2020, listing cash balances of \$28,371 and \$25,165, respectively.	No	Waive
7	Neighbors for Anoka County (41164)	\$25 LFF	2020 1st Quarter		No	Waive
8	Minnesota Eye PAC (80001)	\$25 LFF	2020 1st Quarter	Employee of law firm that filed the report on behalf of the fund mistakenly filed the report one day late. The cash balance as of 3/31/2020 was \$16,416.	No	Waive
9	Mutual Success (41114)	\$400 LFF	2020 1st Quarter	New CEO of association that operates this IE committee was working remotely due to COVID-19 and didn't realize a report needed to be filed. The committee did not have any financial activity during the reporting period. The report was due 4/14/2020 and a no-change statement was filed 5/6/2020. The cash balance as of 3/31/2020 was \$2,816.	No	Waive

10	Water is Life PAC (41188)	\$425 LFF	2020 1st Quarter	Treasurer had difficulty initializing the 2020 calendar year within the CFR software. The report was due 4/14/2020 and was filed 5/7/2020, reflecting no financial activity during the reporting period. The committee also owed \$25 for an LFF from 2018. Treasurer sent payment for \$240, the total remaining funds of the committee. \$25 of that payment was applied to the LFF from 2018 and the remaining \$215 was applied toward this LFF, the treasurer states that the committee will be terminated.	No	Reduce by \$210 conditioned upon the committee terminating within 30 days
11	Roque Diaz (Perpich Center for Arts Education)	\$50 LFF	Original EIS	Official was appointed in November 2018. The EIS was due 1/28/2019 and was filed 3/28/2019. Official states that the EIS was filed late due to a series of unfortunate events and payment of the fee would cause economic hardship especially due to financial difficulties caused by COVID-19. Official is seeking reconsideration of the reduction from \$100 to \$50 granted in May.	Reduced from \$100 to \$50 at May Board meeting	None

C. Informational Items

1. Payment of late filing fee for 2020 1st quarter report of receipts and expenditures

Water is Life PAC, \$215 (partial payment)
 PROGRESSPPAC, \$25
 Minnesota Farmers Union PAC, \$25

2. Payment of late filing fee for 2019 year-end report of receipts and expenditures

Minnesota Muskie & Pike Alliance Legislative Fund, \$250
 Minnesota Gun Owners Political Action Committee, \$50

3. Payment of late filing fee for 2018 year-end report of receipts and expenditures

Minnesota Gun Owners Political Action Committee, \$1,000
 School Lunch Bunch, \$200

4. Payment of late filing fee for 2018 pre-general report of receipts and expenditures

Minnesota Gun Owners Political Action Committee, \$1,000

5. Payment of late filing fee for September 2018 report of receipts and expenditures

Minnesota Gun Owners Political Action Committee, \$500 (remaining balance)

6. Payment of late filing fee for 2018 1st quarter report of receipts and expenditures

Water is Life PAC, \$25

7. Payment of late filing fee for lobbyist principal report due 3/16/2020

Southeast Minnesota Association of Realtors, \$475
UNITE HERE, \$450
Meridian Behavioral Health, \$425
Inter Faculty Organization, \$350
Johnson Controls, Inc., \$325
Ed Allies, \$100
Minnesota Gun Owners Caucus, \$100
Carver County Local 2789, \$75
Midwest Bonding LLC, \$50
American Institute of Architects-MN (AIA Minnesota), \$25

Karen Francois (Department of Employment and Economic Development)

From: Francois, Karen <karen.francois@CO.RAMSEY.MN.US>
Sent: Tuesday, May 05, 2020 2:22 PM
To: Pope, Jodi (CFB) <jodi.pope@state.mn.us>
Subject: Economic Statement of Interest for Karen Francois

Hello Ms. Pope,

Per your attached email, please consider this a request for a waiver. I left employment with the State of Minnesota on April 13, 2018. I started working for Ramsey County on May 1, 2018. I honestly did not know that I was required to complete another form for my time at the state until contacted by you in December of this year. The state must have sent out notices about completing the form after I left. I have always provided my statements of economic interest on time when my employer notifies me.

After a couple of attempts to supply what I thought you needed and now being involved heavily in the Ramsey County COVID-19 response I am finally finding time to hopefully put this to rest. Please forgive the delay. I have attached the form you asked me to submit. Unfortunately because I am in isolation, I cannot scan for my signature so I took a picture of the signature page (see above) I really hope this is ok because I am not able to go into my office at this time.

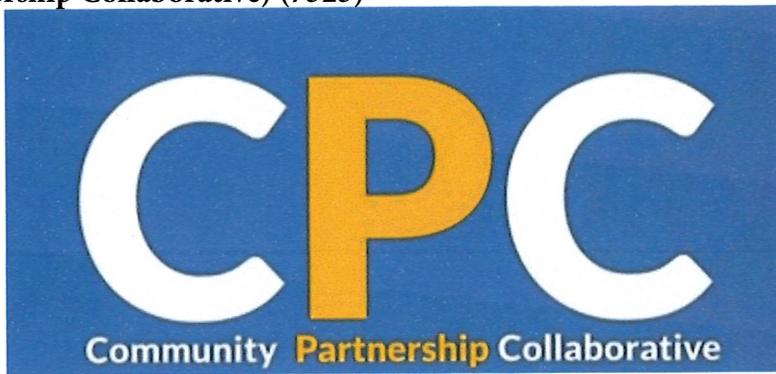
Please let me know if I need to provide additional information or if you have questions.

Thanks,
Karen

Stay strong, hang onto the people you love, be kind to each other and we'll see what tomorrow brings.

Karen Francois | Deputy County Manager
Ramsey County
Information and Public Records
90 W Plato Blvd.
St. Paul, MN 55107
[651-266-2010](tel:651-266-2010)
www.ramseycounty.us

Christine Kuefler | Administrative Assistant
[651-266-2195](tel:651-266-2195)
chris.kuefler@co.ramsey.mn.us



May 6, 2020
RE: Lobby Principal Report Due on 03/16/2020
Reg No: 7525

Dear Mr. Campaign Finance Board

It was not my intention to be late with the report. I was in the midst of completing it and working on
3/12/2020 to get it done, however I completed the wrong report.

MN CAMPAIGN FINANCE BD
20 MAY 8 AM 11:47

Also, due to COVID19 I am unable to pay the late fee. It is at this time I am asking The Board to waive the
fee.

Thank you

A handwritten signature in black ink, appearing to read 'SNE' or similar, written over a horizontal line.

Shanasha Whitson
Community Partnership Collaborative 2.0
612-483-0199 / cpc@cpcmn.org

Mn Professional Fire Fighters (1210)

From: Christopher Parsons <cjp74@msn.com>
Sent: Thursday, May 07, 2020 7:11 PM
To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>
Subject: Request To Waive Late Report Filing Fee

Dear Members of the Minnesota Campaign Finance Board,

I am requesting that the late filing fee of \$575 I have incurred due to the delay in filing my Lobbyist Principal Report due March 16, 2020 be waived.

I originally believed that I had filed the report on March 16th but subsequently realized I had made an error in entering my login information. This became apparent when I received notice from your office that the report had not been received. The correspondence included login information that differed from that which I used on March 16th. That day I entered login information from the previous reporting period. An error on my end, but an honest mistake in my opinion.

You can rest assured that in the future I will take greater care in filing the report and ensuring that the proper procedure will be followed. Thank you for your consideration.

Sincerely,

Chris Parsons
President
Minnesota Professional Fire Fighters
651-206-8780

300 Hardman Avenue S.
South St. Paul, MN 55075
(651) 450-4990
(651) 455-1311 fax



211 West 2nd Street
Duluth, MN 55802
(218) 722-0577
fax (218) 722-6802

May 6, 2020

Megan Engelhardt
Minnesota Campaign Finance Board
Suite 190, Centennial Office Building
658 Cedar Street
Saint Paul, MN 55155-1603

RE: Lobbyist Principal Report due on 3/16/2020
Reg. No.: 900

Dear Megan:

I received your correspondence dated April 17, 2020 in regards to an accrued late filing fee for Lobbyist Principal Report. Compliance with the law is a top priority for me and our organization.

I am writing to request the late filing fee of \$525 to be waived by the Public Disclosure and Campaign Finance Board. The filing of the report was delayed due to a disruption in our communications and operations caused by our response to the spread of the Coronavirus. We experienced a suspected case of COVID-19 very early on and were forced to shut our offices down immediately and take appropriate precautions. We were one of the first offices to entirely shut down and it took considerable time to get up a running remotely.

From a public health standpoint, and in consideration of the health and welfare of our employees, this disruption was necessary and took precedence over many other priorities, including timely filing compliance with the Public Disclosure and Campaign Finance Board.

Compliance with the law remains a top priority. However, given these unprecedented times, I believe, leniency is warranted and waiver of the late fee is appropriate.

Please let me know if you have any questions or if additional information is necessary.

Sincerely,

A handwritten signature in black ink that reads 'Julie Bleyhl'. The signature is fluid and cursive.

Julie Bleyhl
Executive Director
AFSCME Council 5

From: Lori Coutts Fraase <Lori@mntruck.org>
Sent: Friday, May 08, 2020 1:50 PM
To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>
Subject: Late filing fee explanation

Good afternoon Megan,

I hope you and yours are all safe and well in this crazy time.

I am writing to request a waiver for the \$25 late filing fee for our April 14th report for Minnesota TruckPAC.

I'm disappointed with myself because I had the report completed and ready to go on the 14th. The reason it was filed late is we have been inundated since the Coronavirus pandemic hit. As you may know, trucking is an essential business right now and so our association (which runs our PAC) has been really hopping to provide [informational resources and webinars](#), as well as coordinate with regulatory agencies and respond to trucking company requests for help and information while most of us are working from home.

While I was waiting for the okay from the rest of the team to send out the report, I got busy with trucking company requests and calls and simply worked through the rest of the day and forgot. So this is not really an excuse, but an explanation.

If the board is able to waive the fee, that would be much appreciated. If not, we understand.

Thanks so much for your consideration and take care!

LoRi

Please check out MTA's [COVID-19 information and resource page](#) specific to the trucking industry.

Lori Coutts Fraase
Manager of Member Services
[Minnesota Trucking Association](#)
6160 Summit Drive North, Suite 330
Brooklyn Center, MN 55430
Main: 651-646-7351
Direct: 763-251-6432

**Minneapolis Regional Labor Federation (30011)
Neighbors for Anoka County (41164)**

From: Barb Boettcher <barb@minneapolisunions.org>
Sent: Monday, May 11, 2020 10:14 AM
To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>
Cc: Chelsie Glaubitz <chelsie@minneapolisunions.org>
Subject: Report of Receipts - REG #30011 & 41164

Megan,

We apologize to the Campaign Finance Board for the delay in filing the Report of Receipts and Expenditures that were due on 4-14-20.

Due to Covid 19, the nature of our work and the process of setting up a home office in which to operate our Non Profit, the reports were not filed with the CF Board until 1 day later for Reg #41164 and 3 days later for Reg #30011.

We are requesting that both fees be waived for us at during unprecedented time.

Thank you.

Barb Boettcher, Office Mgr
Minneapolis Regional Labor Federation
312 Central Avenue SE, #542
Mpls., MN 55414
651-206-5060 cell

From: Tyler Verry <tyler@mneyemd.org>

Sent: Monday, May 18, 2020 8:01 AM

To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>

Cc: Nate Mussell <ncmussell@locklaw.com>; Mraz, Carol J. <cjmraz@locklaw.com>

Subject: Request waiver of late filing fee

Dear Ms. Engelhardt

On behalf of the Minn Eye PAC (#80001) we are writing in regards to the letter dated April 23, 2020 to request a waiver of the late filing fee. The filing of the Report of Receipts and Expenditures on April 15, 2020 was caused by an unintentional secretarial error on the part of administrative staff at Lockridge Grindal Nauen who filed the report on our behalf. We take these filing deadlines very seriously and apologize for the error. The Minn Eye PAC historically has an upstanding record of consistently meeting filing deadlines and communicating with the Minnesota Campaign Finance Board in a quick and expedient fashion in the event any issues ever arise. Again, we apologize for the oversight and hope the Board will take the unintentional nature of this error into account with our waiver request.

Tyler Verry, CAE

Executive Director

Minnesota Academy of Ophthalmology

651-645-2452 (*call or text*)

tyler@mneyemd.org

Mutual Success (41114)

From: Adam Axvig <Adam@MAFMIC.org>

Sent: Wednesday, May 06, 2020 5:21 PM

To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>

Subject: Re: Mutual Success

Megan,

I started at the Minnesota Association of Mutual Insurance Companies (MAFMIC) at the end of December 2019. Part of my new role at MAFMIC is campaign finance reporting of the MAFMIC PAC and Mutual Success, our organization's Independent Expenditure committee. I became aware this morning of a lack of a Q1 report for our IE committee, which received no donations nor made any expenditures during the time period of the report. As there had been no activity, I had not set up a 2020 entity for the committee in my Campaign Finance Board Reporter software. My apologies for the lapse in reporting, between my transition and all the accompanying disruption, as well as my absence from the office due to covid-related stay-at-home restrictions, this report was missed. I take compliance very seriously and regret this lapse, within an hour or so of my discovery of the missing report, the report was filed. Given the aforementioned circumstances, I respectfully ask that you please consider waiving the associated fine.

Adam Axvig

Adam Axvig
President/CEO
MAFMIC

Phone: (320) 271-0909

Fax: (320) 271-0912

E-mail: adam@mafmic.org

www.mafmic.org

May 10, 2020

Minnesota Campaign Finance Board
190 Centennial Office Building
658 Cedar St.
St. Paul, Minnesota 55155

Re: Request for a waiver of fees for Water is Life

Dear Minnesota Campaign Finance Board:

As treasurer of Water is Life, an independent expenditure only political action committee, I request a waiver of fees for a late filing. The following reasons outline the request:

1. There were no expenditures made during the reporting period.
2. There were no receipts during the reporting period.
3. Water is Life total lifetime raised money is less than 750 dollars

I experienced difficulty in submitting my report. I was not able to correctly start a new year in the reporter. I called the campaign office and received a covid-19 working from home message. I concede it wasn't a glitch that caused the problem and that more could have been done on my part to reach people at Minnesota Campaign Finance Board.

Lastly, with 240 dollars now paid to Minnesota Campaign Finance Board as partial payment for the fee, there is no money in the Water is Life account. The account will be terminated and not operated any longer. Therefore, I respectfully request a waiver of all penalties beyond 240 dollars.

Thank you,



Jennifer Dolson

Roque Diaz (Perpich Center for Arts Education)

From: Diaz, Roque <Diaz.Roque@macphail.org>
Sent: Thursday, May 07, 2020 10:01 AM
To: Olson, Andrew (CFB) <Andrew.D.Olson@state.mn.us>
Subject: Re: 2018 Economic Interest Statement Late Fee
Importance: High

Thank you for the note. My original request (which is below on this same thread on Feb 29, 2020) outlined the reasons I did not file in January due to my unfortunate set of circumstances. I am concerned that I am repeating some of the same information, with now adding the COVID-19 pandemic to my financial concerns. I truly hope this will be heard and considered (again).

To Whom It May Concern:

I am writing this letter to explain my unfortunate set of circumstances that have caused me to become delinquent on the 2018 Economic Interest Statement. I have done everything in my power to make ends meet but unfortunately we have fallen short and would like you to consider waiving the \$50 late fee. My number one goal is to keep my family financially stable as a single father and would really appreciate the opportunity to do that.

My financial situation has taken a hit due to the COVID-19 pandemic and providing financial assistance to my child's mother during this time of uncertainty. Her employment was terminated in March and will continue through the fall. I would appreciate if you can work with me to waive the delinquent amount owed.

I truly hope that you will consider working with me and anxious to get this settled so we all can move on.

Sincerely and Respectfully,

Roque

Roque Diaz | *Director of School Partnerships*

MacPhail Center for Music

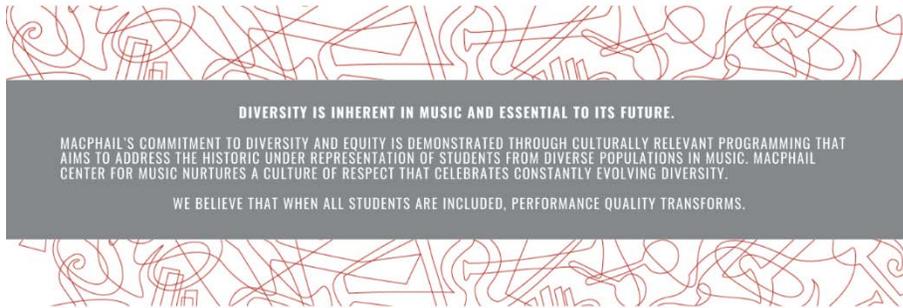
501 South 2nd Street | Minneapolis, MN 55401

Diaz.Roque@macphail.org | Work: 612.767.5256 | Cell: 702.917.4870

Office: 616 | Skype: diaz.roque |

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From: "Olson, Andrew (CFB)" <Andrew.D.Olson@state.mn.us>
Date: Thursday, May 7, 2020 at 9:46 AM
To: "Diaz, Roque" <Diaz.Roque@macphail.org>
Subject: RE: 2018 Economic Interest Statement Late Fee

Hello Mr. Diaz,

If you would like we can add your request to the agenda for the next Board meeting on June 3 and have the Board reconsider your request. It would be helpful to Board members if you could explain why the statement of economic interest was not filed by the deadline. You can just respond to this email and we will forward that information to Board members in advance of the next Board meeting. Keep in mind that waiver requests are public information.

Respectfully,

Andrew Olson
Legal/Management Analyst
Minnesota Campaign Finance and Public Disclosure Board
651-539-1190

From: Diaz, Roque <Diaz.Roque@macphail.org>
Sent: Thursday, May 07, 2020 9:34 AM
To: Olson, Andrew (CFB) <Andrew.D.Olson@state.mn.us>
Subject: Re: 2018 Economic Interest Statement Late Fee
Importance: High

Thank you for the email, Andrew. I am disappointed with the outcome. Given the financial stress due to COVID-19 has left on me as a single father, this is going to be difficult to pay. My finances are being maxed out to assist my son's mother as she has lost all of her employment. Please let me know who I need to write to so I can address my concerns.

Sincerely,

Roque

Roque Diaz | *Director of School Partnerships*

MacPhail Center for Music

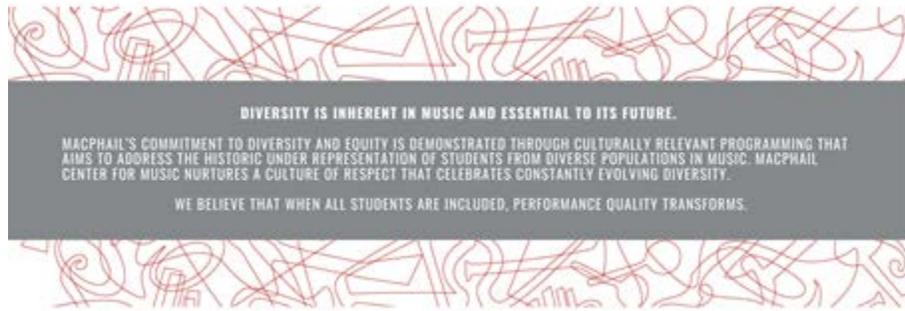
501 South 2nd Street | Minneapolis, MN 55401

Diaz.Roque@macphail.org | Work: 612.767.5256 | Cell: 702.917.4870

Office: 616 | Skype: diaz.roque |

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From: "Olson, Andrew (CFB)" <Andrew.D.Olson@state.mn.us>

Date: Thursday, May 7, 2020 at 9:12 AM

To: "Diaz, Roque" <Diaz.Roque@macphail.org>

Subject: RE: 2018 Economic Interest Statement Late Fee

Hello Mr. Diaz,

Please see the attached letter regarding your waiver request, a copy of which will be mailed to you today. Feel free to contact me with any questions or concerns.

Respectfully,

Andrew Olson
Legal/Management Analyst
Minnesota Campaign Finance and Public Disclosure Board
651-539-1190



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: May 27, 2020

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Advisory Opinion 453 – Use of a podcast as a constituent service

The request for this advisory opinion was received from Senator Bigham on April 27, 2020. Senator Bigham signed a release making her request and the resulting opinion public data. Because of the timing of the request the matter was laid over at the May 6, 2020, Board meeting.

The request asks a series of questions regarding a podcast produced, hosted, and initially paid for by the legislator. The request provides specific facts regarding the podcast's content and participants.

The opinion as drafted states that the podcast described in the facts of the opinion is a constituent service, which is a type of noncampaign disbursement. Based on that determination, the opinion then addresses subsequent questions related to paying the costs to produce and distribute the podcast, disclaimers that may be required on the podcast, and limitations on guests who appear on the podcast. The reasoning and statutory basis for the opinion is more fully explained in the draft.

Attachments:

Advisory opinion request

Draft advisory opinion

Dear Mr. Sigurdson,

As a current Minnesota State Senator and declared candidate for re-election, I am requesting an advisory opinion on hosting podcasts.

I am planning to launch a podcast that focuses on public policy, organizations in the community, and current events in the community. The podcast will feature guests that may include local elected officials, fellow colleagues in the legislature, elected officials on a federal level, business professionals, community members, and other relevant guests depending on the topic.

I want to explain what the podcast won't be engaging in, so the Minnesota Campaign Finance Board has a complete understanding of my intent. Neither my guests nor I will ask for votes, contributions for any political campaign, or assistance on any political campaign. The podcast will not be used to advance any political candidate's candidacy. There may be political discussions that would be partisan in nature, depending on the guests and nature of the subject. Additionally, the podcast has its own email, webpage, and social media accounts.

As I have developed this podcast, there are some questions that should be addressed by the Minnesota Campaign Finance Board. I believe the answers to the questions listed below will assist candidates and elected officials who decide to participate in a similar endeavor.

1. May a state-level elected official and/or candidate for state-level office host a podcast that is not paid for by the official's campaign committee?
2. Does the above-described podcast constitute an in-kind contribution to the campaign committee?
3. May the podcast be sponsored by a business or other association? If yes, are there any required disclaimers?
4. May the podcast accept individual donations to offset capital and ongoing operational costs?
5. If at some future time the podcast was used for campaign purposes, what should be reported to the Board?
6. Would the podcast be required to have a disclaimer that the podcast is not related to a political campaign?
7. If a guest is an elected official, are there any required disclaimers?
8. Can the podcast discuss legislation that is sponsored and/or supported by me? Additionally, can I promote, support, or oppose legislation on the podcast?

Thank you in advance to the board for their consideration. I look forward to your response.

Respectfully submitted,

Sen. Karla Bigham

State of Minnesota
Campaign Finance and Public Disclosure Board
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

THIS ADVISORY OPINION IS PUBLIC DATA
pursuant to a consent for release of information
provided by the requester

Issued to: Senator Karla Bigham
PO Box 18
Cottage Grove, MN 55016

RE: Podcast as a constituent service

ADVISORY OPINION 453

SUMMARY

A legislator may produce or participate in a podcast to discuss public policy and current events and may pay for the podcast with personal funds. Whether the podcast expenses must be accounted for through the legislator's principal campaign committee depends on the content of the podcast.

FACTS

As a state senator who is a declared candidate for reelection, you request an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts which were provided to the Board in a written request and through conversations with Board staff.

1. You plan to develop and launch a podcast. You will be the host of the podcast.
2. You will pay the cost of producing the podcast and the costs for making the podcast available online with personal funds. At some point you may ask for donations or accept sponsorships to help cover the costs of producing and distributing the podcast. You do not intend to use funds from your principal campaign committee for the podcast.
3. The podcast will focus on public policy, organizations in your community, and current events in that community.
4. The podcast will feature guests that may include local elected officials, fellow colleagues in the legislature, elected officials on a federal level, business professionals, community members, and other relevant guests depending on the topic.
5. Depending on the guest and the subject matter of the podcast the discussion may be considered partisan in nature.

6. Neither you as the host nor any guest will ask for votes, contributions for any political campaign or political organization, or assistance or support for any political campaign.
7. The podcast will have its own email, webpage, and social media accounts.

ISSUE ONE

May a legislator who is a candidate for re-election produce and host a podcast that is not paid for by the official's principal campaign committee?

OPINION ONE

Yes. A legislator who is a candidate for re-election may produce and host a podcast that is not paid for by the legislator's principal campaign committee. However, whether the podcast must be accounted for by the legislator's principal campaign committee is determined by the content of the podcast. Candidates and elected officials have commercial, professional, and personal interests that may be the basis for a podcast that would clearly be outside the scope of the regulation and reporting requirements of Chapter 10A. Therefore, the costs of those podcasts would not need to be accounted for by a principal campaign committee.

However, based on the facts presented for this advisory opinion, the subject podcast will focus on discussions of public policy, local organizations, and current events that are of importance to the Senator's community. The purpose of the podcast is therefore to provide a service in the form of information that is relevant to the Senator's constituents. A constituent service is a noncampaign disbursement under Minnesota Statutes section 10A.01, subdivision 26.

The Board has long recognized that some services provided by a legislator to constituents are not for the purpose of influencing the nomination or election of the legislator. In Advisory Opinions 19 and 24¹ the Board recognized the holding of informational hearings, speaking at meetings in the legislator's district, and sending legislative questionnaires and legislative reports as constituent services. Advisory Opinion 19 explained as follows:

One of the functions of a legislator is to report to his constituents on possible legislative action and to obtain their opinions on matters which come before the Legislature so that he may represent them during the session. Any activities designed to enable him to fulfill that function are legitimate constituent services, even though they may have an incidental effect on the legislator's chances for re-election.

Notably both advisory opinions were issued prior to the legislature creating the definition for the term "noncampaign disbursement," which included constituent services, in 1978.²

¹ Advisory Opinion 19 (April 18, 1975). Advisory Opinion 24 (August 5, 1975). While these two opinions provide insight into the Board interpretation of Chapter 10A, opinions issued by the Board prior to 1994 have lapsed, and no longer provide safe harbor to the requester.

² Laws of 1978, Chapter 463, section 10.

More recently the Board provided in Advisory Opinion 365³ that the cost of producing a cable television program on which legislators may serve as hosts and "... be interviewed for perspectives on current issues and matters occurring in the legislature" may be reported as a constituent service "[i]f the purpose of the candidate appearing on the program was to provide constituents with information on issues facing the state...."

Advisory Opinion 403⁴ also acknowledged information on issues and legislative action as a constituent service when it provided:

The Board has extended the concept of constituent services to cover annual reports of legislators to their constituents. While such a service is not requested by the recipient, there is a long tradition and expectation that part of what a legislator does for his or her constituents is to keep them informed.

While the use of a podcast as the medium to distribute information to constituents is a new fact for the Board to consider, both the nature of the information provided on the podcast and the role of a legislator leading a discussion of the issues are consistent with the advisory opinions discussed above. The Board therefore concludes, based on the facts provided, that the podcast is a constituent service under Chapter 10A.

Because a constituent service could provide value to the reelection campaign of a legislator, Minnesota Statutes section 10A.173, subdivision 1, paragraph (a), establishes a period of time in which one-half of a constituent service is a campaign expenditure and a period of time in which the entire cost of those services is a campaign expenditure. The period where one-half of the constituent service is a campaign expenditure begins when the legislature adjourns sine die in a year when the legislator is on the ballot, and continues for 60 days. After the 60-day period expires through election day, the entire expense is a campaign expenditure.

In this case, the cost of producing and distributing a podcast episode must be divided between noncampaign disbursement and campaign expenditure if the episode is released during the 60 days following adjournment sine die in any year in which the Senate is on the ballot. The cost of producing and distributing a podcast episode after 60 days following the adjournment of the legislature sine die is counted entirely as a campaign expenditure.

The Board notes that the Senator plans to develop a website and use email and other social media to promote and distribute the podcast. The costs of the website, email, and other social media platforms used to promote the podcast are distribution costs of the podcast and must also be divided between noncampaign disbursement and campaign expenditure as described above.

Services for constituents are a type of noncampaign disbursement only available to incumbent legislators and constitutional officers because only incumbents have constituents. A podcast produced by a candidate who is not an incumbent could not be classified as a constituent service, and would therefore be evaluated differently than the podcast that is the subject of this opinion.

³ Advisory Opinion 365 (February 22, 2005).

⁴ Advisory Opinion 403 (March 3, 2009).

ISSUE TWO

Does the above-described podcast constitute an in-kind contribution to the campaign committee?

OPINION TWO

Up to the point at which the cost of producing and distributing a constituent service must be divided between noncampaign disbursement and campaign expenditure a legislator has the option of paying for the constituent service with either personal funds or the funds of his or her principal campaign committee. Minnesota Rules 4503.0950, subpart 1, provides:

Constituent services which a principal campaign committee would report as noncampaign disbursements under Minnesota Statutes, section 10A.01, subdivision 26, clause (6), and which are paid for with the personal funds of an incumbent are not reportable.

However, once a constituent service is at least in part a campaign expenditure it must be paid for by the legislator's principal campaign committee, or if the cost is paid for by the legislator, the cost must be reported as an in-kind donation from the legislator to the principal campaign committee.

ISSUE THREE

May the podcast accept individual donations to offset capital and ongoing operational costs?

OPINION THREE

Yes, but donations from individuals that are used to pay for noncampaign disbursements, including constituent services, must be deposited in the account of the principal campaign committee of the candidate. Money donated to a principal campaign committee is a contribution⁵ to the committee, and is subject to the source and contribution limits provided in Chapter 10A. Because donations for the podcast must be deposited in the principal campaign committee's account, the solicitation of donations to pay for the podcast would in effect be soliciting contributions to the principal campaign committee.

ISSUE FOUR

May the podcast be sponsored by a business or other association? If yes, are there any required disclaimers?

OPINION FOUR

A corporation is prohibited from making contributions to a principal campaign committee, and principal campaign committees are prohibited from accepting contributions from corporations.⁶ For the purposes of this advisory opinion the term "sponsorship" is

⁵ Minnesota Statutes section 10A.01, subdivision 11, defines "contribution."

⁶ Minnesota Statutes section 211B.15.

differentiated from a contribution in that with a sponsorship the business or association pays for the cost of the podcast in exchange for advertising time in the podcast. Presumably a sponsor of the podcast would receive marketing exposure of at least equal value to the cost of producing and distributing the podcast. The sponsorship would in theory not be a contribution to the principal campaign committee, but instead something similar to a business transaction.

However, principal campaign committees are not established to operate as businesses. Chapter 10A does not contemplate principal campaign committee making income from providing services to constituents. More importantly, if the Board were to allow business sponsorship of noncampaign disbursements it would defeat contribution limits and allow access to sources of funding, primarily to incumbent legislators, otherwise prohibited by Chapter 10A. The Board concludes therefore that corporations and other associations may not sponsor noncampaign disbursements, including a podcast provided as a constituent service.⁷

ISSUE FIVE

If at some future time the podcast was used for campaign purposes, what should be reported to the Board?

OPINION FIVE

As noted in opinion one, the cost of producing and distributing any podcast released after the adjournment of the legislature sine die must be divided between noncampaign disbursements and campaign expenditures as provided in Minnesota Statutes section 10A.173, subdivision 1. The portion of costs for the podcasts that are campaign expenditures are reported to the Board and count against the legislator's spending limit.

ISSUE SIX

Would the podcast be required to have a disclaimer that the podcast is not related to a political campaign?

OPINION SIX

No, a podcast that is entirely a constituent service when it is released does not require the disclaimer set forth in Minnesota Statutes section 211B.04 because it is not campaign material. However, Minnesota Statutes section 10A.173, subdivision 1 (c), provides:

A communication prepared as a service for a constituent must include the disclaimer required by section 211B.04 when the communication is disseminated after adjournment sine die of the legislature in the election year for the office held.

⁷ The Board announced in the Findings and Order in the Matter of a Contribution to the 23rd Senate District DFL from the Maschka, Riedy & Ries Law Firm that a business may not sponsor fundraising events in part because of the enforcement problems listed in issue four.

If the content of the podcast changes from a constituent service to campaign material then the standard campaign disclaimer provided in section 211B.04 is required at the time the content of the podcast changes.

ISSUE SEVEN

If a guest is an elected official, are there any required disclaimers?

OPINION SEVEN

No, having a guest on the podcast who is an elected official does not require additional campaign disclaimers for the elected officials. The facts of the opinion provide that neither the host of the podcast nor any guest will ask for votes, contributions for any political campaign or political organization, or assistance or support for any political campaign. Minnesota Rules 4503.1000, subpart 1, provides:

Campaign materials, including media advertisements, produced and distributed on behalf of one candidate which contain images of, appearances by, or references to another candidate, but which do not mention the candidacy of the other candidate or make a direct or indirect appeal for support of the other candidate, are not contributions to, or expenditures on behalf of that candidate.

As explained in opinion six, when the podcast is a constituent service a campaign disclaimer is not required. When the podcast is a campaign expenditure on behalf of the legislator because of adjournment sine die or because of a change in the content of the podcast, a campaign disclaimer for the legislator's committee is required. However, as provided in the above rule the appearance of another candidate in the podcast will not be a campaign expenditure for that candidate if there is no direct or indirect appeal for support for the other candidate. If the podcast is not campaign material for the other candidate, then a disclaimer for the other candidate's campaign is not required.

ISSUE EIGHT

Can the podcast discuss legislation that is sponsored or supported by the host? Additionally, can the host promote, support, or oppose legislation on the podcast?

OPINION EIGHT

Yes, the podcast may discuss legislation that is sponsored or supported by the host, and the podcast may also be used to promote, support, or oppose legislation. As noted in the facts of the opinion the discussion of issues and legislation may at times be considered partisan. Information provided as a constituent service does not have to be neutral or nonpartisan in nature. However, a podcast that advocates for the election or defeat of candidates because of their position on legislation is not a constituent service.

Issued: June 3, 2020

Gary Haugen, Vice Chair
Campaign Finance and Public Disclosure Board

