

Minnesota

Campaign Finance and Public Disclosure Board Meeting

Monday, November 14, 2022

9:30 A.M.

Blazing Star Room
Centennial Office Building

REGULAR SESSION AGENDA

1. Approval of minutes

A. October 5, 2022

2. Chair's report

A. Meeting schedule

3. Executive director report

A. Annual Board Report

B. Lobbyist Disbursement Summary

4. Reconciliation of contributions

5. Member Swanson proposal on stayed fines

6. Enforcement report

7. Prima facie determinations

A. Complaint of Jon Erik Kingstad regarding Jim Schultz For Minnesota Attorney General, *et al.*

B. Complaint of Minnesota DFL regarding Dr. Scott Jensen for Governor and Heal Minnesota

C. Complaint of Minnesota DFL regarding the Kim Crockett for Secretary of State Committee and the American Principles Project PAC-Minnesota Fund

D. Complaint of Chantal Oechsle regarding the Bernie (Perryman) for House Committee

8. Legal report

9. Other business

EXECUTIVE SESSION

Immediately following regular session

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

.....
**October 5, 2022
Ladyslipper Room
Centennial Office Building**
.....

MINUTES

The meeting was called to order by Chair Rashid.

Members present: Asp, Flynn (by Webex), Leppik, Rashid, Soule, Swanson

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

MINUTES (September 7, 2022)

The following motion was made:

Member Leppik's motion: To approve the September 7, 2022, minutes as drafted.

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

CHAIR'S REPORT

2022 meeting schedule

The November and December Board meetings will be scheduled because of conflicts with member availability.

EXECUTIVE DIRECTOR'S REPORT

Mr. Sigurdson stated that in November he will present a proposal to the Board regarding the standard for staying a portion of a civil penalty imposed by the Board. Mr. Sigurdson said that in November he also hopes to provide the Board with an initial draft of legislative recommendations for the Board to consider. Mr. Sigurdson stated that Board staff is preparing to send notices to those required to file the campaign finance report that is due on October 31.

ENFORCEMENT REPORT

A. Consent Items

1. Request to withdraw political committee registration – Machinists Non Partisan Political League (41317)

Mr. Olson stated that the Machinists Non Partisan Political League was registered with the Board as a political committee on September 7, 2022, but after speaking with Board staff the International Association of Machinists and Aerospace Workers realized that it was not required to register a political committee with the Board and on September 21, 2022, requested that its registration be withdrawn. Mr. Olson said that as of that date there were no outstanding reports because the committee's first report would have been due on September 27, 2022.

The following motion was made:

Member Asp's motion: To approve the request.

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

B. Discussion Items

1. Balance adjustment request – Cass County DFL (20331)

Mr. Olson stated that the party unit's 2019 year-end report of receipts and expenditures listed an ending cash balance of \$8,750.19, while its 2020 year-end report (amendment 2) listed a beginning cash balance of \$8,453.94, leaving a discrepancy of \$296.25. Mr. Olson said that the treasurer, Sandra Shirek, has reviewed the party unit's financial records and discussed the matter with Board staff, but is unable to reconcile the discrepancy and stated that the reported 2020 beginning cash balance is correct and the discrepancy appears to be the result of errors made by a previous treasurer several years ago. Mr. Olson stated that the party unit is asking that its 2019 ending cash balance be adjusted downward by \$296.25 and explained that the attached email exchange also involved other reporting issues that have been resolved.

The following motion was made:

Member Swanson's motion: To approve the request.

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

2. Balance adjustment requests – 26th Senate District DFL (Old) (20872)

The party unit's 2021 year-end report of receipts and expenditures (amendment 1) listed an ending cash balance of \$11,313.82, while its 2022 pre-primary report listed a beginning cash balance of \$11,707.45, leaving a discrepancy of \$393.63. The treasurer, Anastasia Hopkins Folpe, has reviewed the party unit's financial records and discussed the matter with Board staff, but is unable to reconcile the discrepancy. She provided a bank statement showing that the reported 2022 beginning cash balance is correct. The party unit is asking that its 2021 ending cash balance be adjusted upward by \$393.63.

The party unit's 2018 year-end report (amendment 3) listed an ending cash balance of \$8,234.37, while its 2019 year-end report (amendment 1) listed a beginning cash balance of \$9,212.40, leaving a discrepancy of \$978.03. Ms. Folpe has reviewed the party unit's financial records and discussed the matter with Board staff, but is unable to reconcile the discrepancy. She stated that the reported 2019 beginning cash balance is correct, she took over as treasurer in December 2018, and she has very limited financial records covering 2018. The party unit is asking that its 2018 ending cash balance be adjusted upward by \$978.03.

The party unit's 2017 year-end report (amendment 2) listed an ending cash balance of \$8,254.02, while its 2018 year-end report (amendment 3) listed a beginning cash balance of \$8,354.48, leaving a discrepancy of \$100.46. Ms. Folpe has reviewed the party unit's financial records and discussed the matter with Board staff, but is unable to reconcile the discrepancy. She provided a bank statement showing that the reported 2018 beginning cash balance is correct. The party unit is asking that its 2017 ending cash balance be adjusted upward by \$100.46.

If granted the three requests would amount to a total upward adjustment of \$1,472.12. The party unit is seeking to terminate its registration with the Board due to redistricting and intends to file a termination report after the balance discrepancies are resolved.

The following motion was made:

Member Soule's motion: To approve the request.

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

C. Waiver Requests

Mr. Hager provided a brief overview of the waiver requests. Member Flynn asked about an amount listed in the request from the 62nd Senate District DFL. Mr. Olson explained that the amount is related to a cash balance discrepancy between two calendar years and staff is working with the party unit to address that issue. Member Soule asked for an explanation of the color-coding of the requests and the staff recommendations. Mr. Sigurdson stated that for the requests in red Board staff is recommending that no action be taken and that for the request in yellow, Board staff is not making a recommendation.

In response to a question from Member Swanson, Mr. Hager explained that the report addressed by waiver request number 2 was filed by a compliance firm on behalf of the lobbyist and Mr. Sigurdson explained that both lobbyists and political organizations sometimes hire compliance firms to prepare and file their reports. In response to a question from Member Leppik, Mr. Sigurdson and Ms. Engelhardt said that it is unclear whether any officer of the 62nd Senate District DFL attended the Board's compliance training. Members discussed each waiver request prior to voting on the following motions.

Entity	Late Fee/ Civil Penalty	Report Due	Factors and Recommended Action	Board Member's Motion	Motion	Vote on Motion
1. 62nd Senate District DFL (20483)	\$1,000 LFF \$1,000 CP	2021 Year-End	Report due 1/31/2022. Received 7/16/2022. Stated the issue was related to turmoil within the party unit in which individuals left the party unit and refused to hold elections so new individuals could be appointed. This was a no change statement. RECOMMENDED ACTION: No recommendation	Soule	Waive CP only	A roll call vote was taken. All members voted in the affirmative.
2. Lobbyist Hue Nguyen (2089)	\$50 LFF	1st 2022 Lobbyist	Report due 6/15/2022 and filed one day late. Report was filed by a compliance firm and lobbyist profile on website was not set up properly by the compliance firm. RECOMMENDED ACTION: None	Asp	Waive	A roll call vote was taken. Asp, Soule, Swanson voted in the affirmative. Flynn, Leppik, Rashid voted in the negative. Motion failed.
3. Jennifer for Minnesota (18736)	\$45 LFF	Original EIS	Candidate EIS due 6/9/2022. Received 7/8/2022. Stated was told to file online and tried multiple times. When contacted Board staff explained since she is a first time candidate, it needed to be completed via a paper form. RECOMMENDED ACTION: None	Swanson	Waive	A roll call vote was taken. All members voted in the affirmative.

D. Informational Items

1. Payment of late filing fee for 2022 pre-primary report of receipts and expenditures

MNYC Action Fund, \$350
RightTech PAC, \$250
Traverse County DFL, \$200
Mahnomen County RPM, \$150
Eichorn (Justin) for MN Senate Campaign Committee, \$100
Leigh Finke for Minnesota, \$50

2. Payment of late filing fee for 2022 pre-primary 24-hour notice of large contributions

Planned Parenthood Minnesota PAC, \$50

3. Payment of late filing fee for June 2022 report of receipts and expenditures

4th Congressional District IAP, \$100

4. Payment of late filing fee for 2021 year-end report of receipts and expenditures

MNYC Action Fund, \$25

5. Payment of late filing fee for lobbyist disbursement report due 6/15/2022

Sarah Psick, \$100
Barbara Johnson, \$75
Andy Pomroy, \$75
ThaoMee Xiong, \$50
Matt Privratsky, \$25

6. Payment of late filing fee for lobbyist disbursement report due 6/15/2021

ThaoMee Xiong, \$50

7. Payment of late filing fee for lobbyist disbursement report due 6/15/2018

Sarah Psick, \$50

8. Payment of late filing fee for original EIS

Chad Tschimperle, \$10

9. Payment of civil penalty for prohibited contribution during legislative session

James Erickson, \$125
Simon (Steve) for Secretary of State, \$125

LEGAL COUNSEL'S REPORT

Mr. Hartshorn provided members with a legal report that is attached to and made a part of these minutes.

EXECUTIVE SESSION

Chair Rashid recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair had nothing to report into regular session.

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

Respectfully submitted,

Jeff Sigurdson
Executive Director

Attachments:
Legal report



MINNESOTA

CAMPAIGN FINANCE BOARD

Board Meeting Dates for Calendar Year 2022

Meetings are at **9:30 A.M.** unless otherwise noted.

2022

Thursday, December 15

2023

Wednesday, January 4

Wednesday, February 1

Wednesday, March 1

Wednesday, April 5



MINNESOTA CAMPAIGN FINANCE BOARD

Date: November 7, 2022

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Executive Director's Report

Campaign Finance Reports: The pre-general report of receipts and expenditures for all state candidates on the general election ballot, all political committees, all political party units and all political funds that had activity during the reporting period, was due on October 31, 2022. The Board currently has not received 5 of the expected 391 reports from candidate committees (98.7% filed) or 90 of the expected 849 reports from all other types of committees and funds (89.3% filed).

The 24-hour reporting period for large contributions received after the close of the pre-general report period opened on October 25 and will close on November 7, 2022. As of the date of this memo the Board has received 345 24-hour notices, which are immediately available for public review at <https://cfb.mn.gov/reports-and-data/viewers/campaign-finance/large-contribution-notices/>.

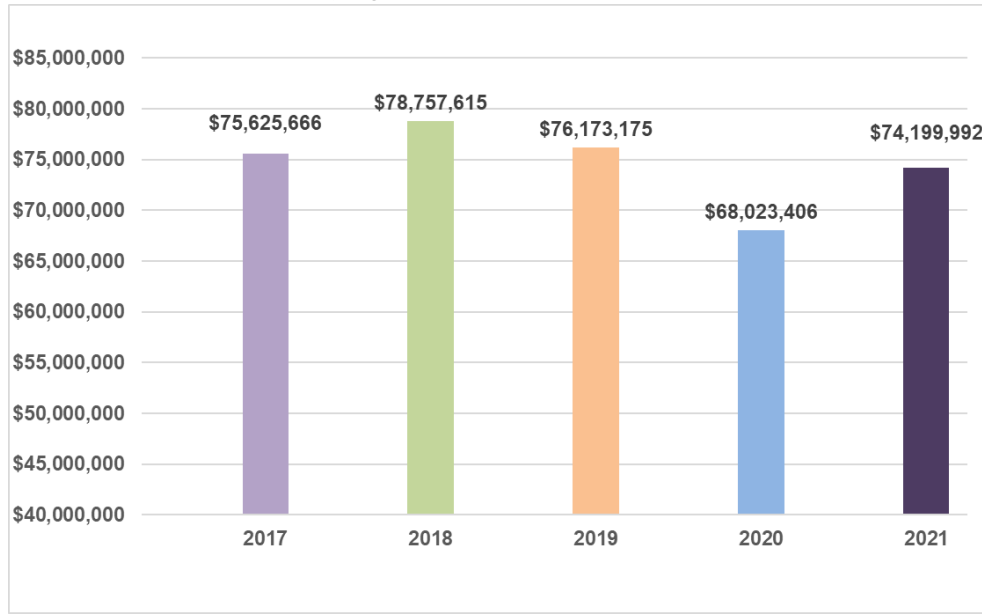
Annual Report of Board Operations for Fiscal Year 2022

Staff has completed for Board approval a draft report of the Board's operations during fiscal year 2022 (July 1, 2021 – June 30, 2022). This report is required by Minnesota Statutes section 10A.02, subdivision 8. The report is provided to the governor, legislative leadership, the legislative library, and is made available to the public through the Board's website. The report is required to contain the fiscal operations of the Board, including the names, and duties of Board members and staff. The report also reviews the major programs administered by the Board. A copy of the report is attached. Because the report is issued to the legislature, a Board motion to approve the draft and release the report is required.

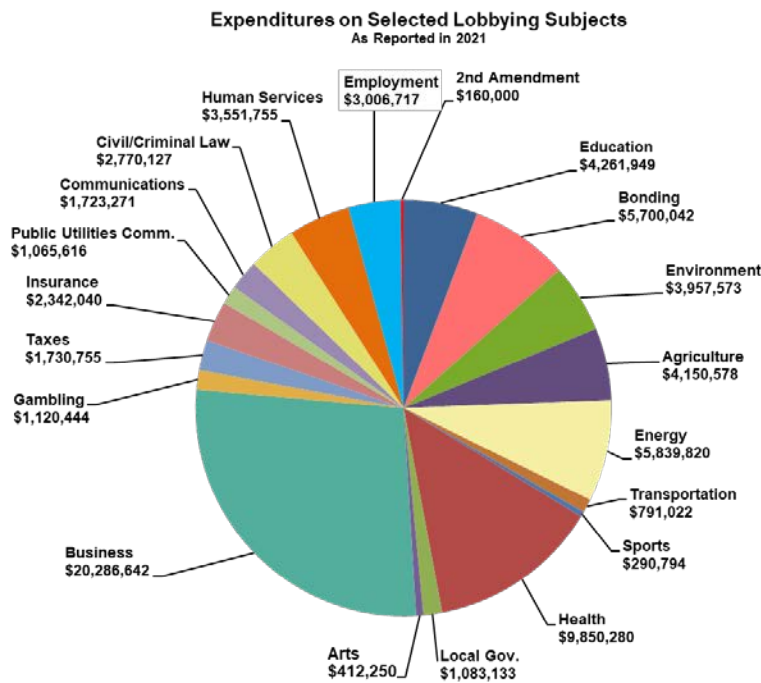
Lobbyist Disbursement Summary: Each year Board staff produces a summary on disbursements made to influence official actions in Minnesota during the prior calendar year. The summary provides 165 pages of detailed information on the lobbyists registered for each principal along with total lobbying disbursements reported during the year. The summary also provides an overview of total lobbying disbursements reported for various categories, and identifies the associations that made the largest expenditures by lobbying area in 2021. The summary is available online at: https://cfb.mn.gov/pdf/publications/reports/lobbyist_disbursement_summaries/lbsm_2021.pdf.

A couple of interesting charts from the summary are shown below.

Lobbyist Principal Disbursements 2017 – 2021 The total amount spent on influencing all types of official actions increased by 8.3% between 2020 and 2021. Of the \$74,199,992 dollars spent on lobbying, \$5,194,947 was spent lobbying the MN Public Utilities Commission.



Expenditures by Lobbying Subject Once a year the designated lobbyist for each principal reports the subjects on which the lobbyists represented the association. Linking that information to the disbursements reported by the principal’s lobbyists provides a fairly accurate picture of the amount spent on lobbying subjects during 2021. Board staff makes some assumptions when categorizing the subjects listed on the lobbyist reports into the twenty broad subject areas used in the graph.



Attachments

Annual Report of Board Operations – Fiscal Year 2022

Report of the Minnesota Campaign Finance and Public Disclosure Board



Covering Fiscal Year 2022

July 1, 2021- June 30, 2022

Issued: November 2022

CAMPAIGN FINANCE and PUBLIC DISCLOSURE BOARD

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This document is available in alternative formats to individuals with disabilities by calling 651-539-1180, 800-657-3889, or through the Minnesota Relay Service at 800-627-3529.



MINNESOTA CAMPAIGN FINANCE BOARD

DATE: November 14, 2022

TO: The Honorable Tim Walz, Governor
The Honorable, Jeremy Miller, Senate Majority Leader
The Honorable Melissa Hortman, Speaker of the House
The Honorable Melisa López Franzen, Senate Minority Leader
The Honorable Kurt Daudt, House Minority Leader
The Honorable Mary Kiffmeyer, Chair State Government Finance and Policy and Elections
The Honorable Michael Nelson, Chair State Government Finance and Elections

FROM: Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

SUBJECT: Report of Board activities during fiscal year 2022.

Pursuant to Minnesota Statutes section 10A.02, subdivision 8 (a), the Campaign Finance and Public Disclosure Board submits this report of the Board's activities during fiscal year 2022.

The Board, consistent with its objectives and administrative procedures, provided guidance to the thousands of individuals and associations whose disclosure of certain political, lobbying, and economic interest activities is regulated by the Campaign Finance and Public Disclosure Act, Minnesota Statutes Chapter 10A.

Included in this report is information about campaign finance disclosure, the filing of lobbyist disbursement and lobbyist principal reports, and the filing of statements of economic interest by public officials.

Throughout its activities the Board strives to accomplish its mission; which is to promote public confidence in state government decision-making through development, administration, and enforcement of disclosure and public financing programs and ensure public access to and understanding of information filed with the Board.

We recognize the importance the State of Minnesota places on public disclosure laws and the regulation of campaign finance activity and appreciate the trust placed in the Board and its staff by the Legislature and the Office of the Governor.

Table of Contents

EXECUTIVE SUMMARY	1
INTRODUCTION TO THE BOARD	2
Authority	2
Mission Statement	2
Functions	2
Goals and Objectives	3
Board and Staff	3
Board Member Qualifications	3
Board Members - July 1, 2021, through June 30, 2022	4
Summary of Board Activities	7
Meetings	7
Advisory Opinion Procedure	8
Education and Training Outreach	9
Use of Technology	10
CAMPAIGN FINANCE PROGRAM	12
Program Overview	12
Legislative Action and Rulemaking	12
Advisory Opinions	13
Campaign Finance Disclosure Reports Filed	14
Electronic Filing	15
Public Subsidy Payments	16
Political Party Payments	17
Campaign Finance Enforcement Actions	18
LOBBYIST PROGRAM	19
Program Overview	19
Legislative Action and Rulemaking	19
Advisory Opinions	19
Lobbyist Disbursement Reports	20
Principal Reporting	21
Lobbyist Program Enforcement Actions	22
ECONOMIC INTEREST PROGRAM	22
Program Overview	22
Legislative Action and Rulemaking	23
Advisory Opinions	23
OTHER BOARD PROGRAMS	23
STAFF DUTIES	26
Staff Salaries	28
BOARD FINANCIAL INFORMATION	28
Board Operating Budget	29
Penalties Paid for Late Filing of Disclosure Reports and Other Violations of Chapter 10A	30

Executive Summary

The Campaign Finance and Public Disclosure Board is charged with the administration of the Campaign Finance and Public Disclosure Act, Chapter 10A of Minnesota Statutes. There are three major programs governed by Chapter 10A: 1) the regulation of campaign finance contributions and expenditures for state-level candidates, party units, and political committees; 2) the registration and reporting of lobbyists and the principals the lobbyists represent; and 3) the collection and disclosure of economic interest statements required of public officials. A brief overview of each program is provided here, with reference to the page in the annual report where detailed information is located. Additionally, the annual report provides information on Board members who served during the fiscal year beginning on page 4, and on the Board's staff, budget, and other financial activity during the fiscal year starting on page 26.

Fiscal year 2022 includes the first six months of calendar year 2022, which is a state election year. To help candidates and treasurers comply with the reporting and compliance issues in Chapters 10A and 211B Board staff conducted seven virtual training sessions through the end of June, with many more scheduled in fiscal year 2023. Remote training was initially in response to the COVID pandemic, but it has proved to be very popular with candidates and treasurers who appreciate being able to attend training without travel to a specific location, and who can use recordings of the training sessions at their convenience. During Additional information regarding the training the Board conducted is found on page 9.

Staff worked remotely from home during the COVID-19 pandemic, but during the summer of 2022 staff were again scheduled to work the majority of time in the Board's offices. However, staff is still scheduled to work some days from home if it is compatible with the operational needs of the office.

On the filing date for the 2021 year-end report of campaign receipts and expenditures there were 698 state-level candidates, 315 political party units, and 410 political committees and funds registered with the Board. Collectively, the year-end reports disclosed \$45,568,500 in receipts and \$25,587,297 in expenditures during calendar year 2021. Additional information regarding the campaign finance program begins on page 12.

About 1,460 lobbyists were registered with the Board at any one time throughout the fiscal year. The lobbyists represented 1,527 principals. The principals reported total lobbying expenditures of \$74,199,992 in calendar year 2021. Additional information on the lobbyist program is found on page 19.

The economic interest disclosure program requires public officials in approximately 3,100 positions to file economic interest statements with the Board. Depending on the position, these officials file their statements when they initially file their affidavits of candidacy for state-level office or when they take office. Additionally, public officials must review and update their statements in January of each year. Details on the economic interest disclosure program start on page 22.

During the fiscal year, the Board held ten scheduled meetings and one special meeting. All regular sessions of Board meetings may be watched and participated in via WebEx. The Board returned to meeting in person in May of 2022. At these meetings, the Board reviewed and approved twenty five conciliation agreements that resolved violations of Chapter 10A, and dismissed issued three probable cause determinations to dismiss complaints filed with the Board.

Introduction to the Board

The Campaign Finance and Public Disclosure Board was established by the state legislature in 1974 through enactment of Chapter 10A of the Minnesota Statutes. Throughout its history the Board has enforced the provisions of Chapter 10A, promulgated and enforced Minnesota Rules 4501 through 4525, and issued advisory opinions to guide clients in meeting the chapter's requirements.

In 2013 the Board was given authority over three sections of Chapter 211B. Those sections are (1) 211B.04, which governs the "prepared and paid for" form of disclaimer, (2) 211B.12, which specifies the purposes for which campaign money legally may be used, and (3) 211B.15, which governs corporate contributions. This authority is limited to those individuals and associations already subject to the Board's jurisdiction under Chapter 10A.

Mission Statement

To promote public confidence in state government decision-making through development, administration, and enforcement of disclosure and public financing programs which will ensure public access to and understanding of information filed with the Board.

Functions

Core functions of the Board include administration and management of the following:

- registration and public disclosure by state legislative, constitutional office, and judicial office candidates; political party units; political committees; and political funds;
- state public subsidy program that provides public funding to qualified state candidates and the state committees of political parties;
- registration and public disclosure by lobbyists and principals attempting to influence state legislative action, administrative action, and the official action of metropolitan governmental units; and
- disclosure of economic interest, conflicts of interest, and representation of a client for a fee under certain circumstances for designated state and metropolitan governmental unit officials.

Goals and Objectives

Goals and objectives of the Board include the following:

- Create better compliance with the Campaign Finance and Public Disclosure Act by providing easy access to information and training.
- Provide fair and consistent enforcement of the Act.
- Help citizens become better informed about public issues related to the Act.

Board and Staff

The Board consists of six members, none of who may be an active lobbyist, a state elected official, or an active candidate for state office. The Board is not non-partisan; rather it is multi-partisan, with no more than three of the members of the Board supporting the same political party. The Board was able to maintain eight full-time positions during the fiscal year. Additional information about Board staff is found beginning on page 26.

Board Member Qualifications

The Board consists of six citizen members who are responsible for the administration of the Campaign Finance and Public Disclosure Act. Members of the Board are appointed by the Governor to staggered four-year terms. Their appointments must be confirmed by a three-fifths vote of the members of each body of the legislature. Two members must be former members of the legislature who support different political parties; two members must be persons who have not been public officials, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the date of their appointment; and the other two members must support different political parties.

Board Members

July 1, 2021, through June 30, 2022



Margaret Leppik

Margaret (Peggy) Leppik was appointed to the Board in May of 2015 by Governor Dayton for a term ending in January of 2016. Governor Dayton re-appointed Ms. Leppik in January 2016 for a term ending in January of 2020, but because no appointment was made to replace her, Ms. Leppik continued to serve until July 1, of 2020. In August of 2020, Walz reappointed Ms. Leppik to a term ending in January of 2024. Ms. Leppik fills a Board position requiring a former Republican legislator. Ms. Leppik served as a state representative from 1991-2003 where she chaired the Higher Education Finance Committee. She served on the Metropolitan Council from 2003-2011 where she was vice chair for three years and chaired the Environmental Committee. A graduate of Smith College, Ms. Leppik is an active volunteer for numerous nonprofit organizations.



Carol Flynn

Carol Flynn was appointed to the Board in February of 2015 by Governor Dayton for a term ending in January of 2019. In August of 2020, Governor Walz reappointed Ms. Flynn to a term ending in January of 2023. She fills a Board position requiring a former DFL legislator. Ms. Flynn served as a state senator from 1990-2000 where she was Majority Whip and chaired the Judiciary and Transportation Committees. Ms. Flynn worked and studied at the University of Minnesota. She served on the Metropolitan Waste Control Commission and Metropolitan Council where she chaired the Systems Committee. She currently volunteers on several union retiree organizations.



Daniel N. Rosen, Member July 2021 to January 2022

Daniel N. Rosen was initially appointed in July of 2014, by Governor Dayton for a term ending in January of 2018. Governor Dayton re-appointed Mr. Rosen in January 2018 for a term ending in January of 2022. He filled a Board position requiring a member who has not been a public official, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the member's appointment to the Board. A lawyer in Minneapolis, Mr. Rosen is a graduate of the University of Minnesota Law School and the lead Minnesota partner of the Kluger Kaplan law firm, where he practices in the field of business and real estate litigation. Prior to law school Mr. Rosen was as an officer in the United States Navy and served in Operations Desert Shield and Desert Storm.



Faris Rashid, Board Chair January 2022 to June 2022

Faris Rashid was appointed to the Board in August of 2020 by Governor Walz. Mr. Rashid was appointed again in July of 2021 for a term ending in January of 2023. He fills a Board position requiring a member who has not been a public official, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the member's appointment to the Board. Mr. Rashid is a trial lawyer and partner at Greene Espel PLLP with a focus on technology, intellectual property, and trade-secrets disputes. He graduated from the University of Wisconsin Law School.



Stephen Swanson Board Chair, July 2021 to January 2022

Stephen D. Swanson was appointed to the Board in July of 2017 by Governor Dayton for a term ending in January of 2020, but because no appointment was made to replace him, Mr. Swanson continued to serve until July 1, of 2020. In August of 2020, and again in July of 2021, Governor Walz reappointed Mr. Swanson to a term ending in January of 2024. He occupies an unrestricted Board position and supports the DFL party. Mr. Swanson is a graduate of the University of Cincinnati College of Law, and holds a Master of Laws degree from New York University. Following a career as an attorney with Mid-Minnesota Legal Assistance, Inc. Mr. Swanson served as a Hennepin County District Court Judge from July of 1989 to February of 2007 and as a Senior Judge from January of 2009 to April of 2014. He served as a temporary administrative law judge with the Minnesota Office of Administrative Hearings from May 2014 to May 2017. Mr. Swanson has served as an international judge on the Court of Bosnia and Herzegovina, and worked in USAID-sponsored rule of law projects in Afghanistan, Kosovo, and Lebanon. Mr. Swanson was employed as a half-time housing attorney with the Volunteer Lawyers Network. Mr. Swanson is presently an arbitrator for the Minnesota Bureau of Mediation Services on the Peace Officer Grievance Arbitration Roster.



George Soule

George Soule was appointed to the Board in March of 2021 by Governor Walz for a term ending in January of 2025. He occupies an unrestricted Board position and does not have a political party affiliation. Mr. Soule is a trial lawyer and founding partner of Soule & Stull LLC in Minneapolis. He also serves as a tribal court of appeals judge for five Minnesota tribes, including the White Earth Nation, where he is a member. Mr. Soule is a former Chair of the Minnesota Commission on Judicial Selection and serves on the Minnesota State Colleges and Universities Board of Trustees. He graduated from Minnesota State University Moorhead and Harvard Law School.



David Asp

David Asp was appointed to the Board in February of 2022 by Governor Walz for a term ending in January of 2026. He fills a Board position requiring a member who has not been a public official, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the member’s appointment to the Board. Mr. Asp supports the Republican party.

Mr. Asp is a partner at Lockridge Grindal Nauen PLLP where his practice focuses on litigation, particularly litigation involving health care and administrative law. Mr. Asp has been an active volunteer on the board of several community and non-profit organizations, and has volunteered with political campaigns, party units, and political committees. He graduated from Augsburg College and the University of Minnesota Law School.

Summary of Board Activities

Meetings

The Board holds regular monthly meetings, which are open to the public, and executive session meetings, which are closed to the public.

The Campaign Finance and Public Disclosure Board held ten scheduled and one special meetings during the fiscal year. Minutes of Board meetings are published on the Board’s website.

Advisory Opinion Procedure

The Board is authorized to issue advisory opinions on the requirements of the Campaign Finance and Public Disclosure Act, Minnesota Statutes Chapter 10A; Minnesota Statutes sections 211B.04, 211B.12, and 211B.15 if the requestor is under the jurisdiction of Chapter 10A. Individuals or associations may ask for advisory opinions based on real or hypothetical situations to guide their compliance with these laws.

A request for an advisory opinion and the opinion itself are nonpublic data. The Board provides consent to release information forms to individuals requesting opinions as part of the procedures under this law. If the requester does not consent to the publication of the requester's identity, the Board generally publishes a public version of the opinion, which does not identify the requester.

A written advisory opinion issued by the Board is binding on the Board in any subsequent Board proceeding concerning the person making or covered by the request and is a defense in a judicial proceeding that involves the subject matter of the opinion and is brought against the person making or covered by the request unless 1) the Board has amended or revoked the opinion before the initiation of the Board or judicial proceeding, has notified the person making or covered by the request of its action, and has allowed at least 30 days for the person to do anything that might be necessary to comply with the amended or revoked opinion; 2) the request has omitted or misstated material facts; or 3) the person making or covered by the request has not acted in good faith in reliance on the opinion.

Two advisory opinions, Advisory Opinions 454 and 455 were issued in fiscal year 2022. Summaries of the opinions are provided in the review of the campaign finance program.

Education and Training

To accomplish the goal of educating clients and the interested public on the compliance and reporting requirements of Chapter 10A Board staff conducted the following training during the fiscal year:

- 7 remote compliance training sessions attended by 315 candidates and treasurers of principal campaign committees, political party units, and political committees and funds;

The seven remote compliance trainings were scheduled for both day and evening start times to accommodate different work schedules for treasurers and candidates. Also, staff recorded the remote compliance training class and remote computer lab training class so that clients could watch the training classes at their convenience. The recorded training classes and the PowerPoint materials and handouts are on the website for clients to access.

As an effort to provide training available at any time and at any location with web access the Board contracted to develop five online training videos for treasurers. The modules allow viewers to move at their own pace through the topics covered and incorporate quizzes during the training to make the modules more interactive. The Board also maintains videos on specific topics related to using Campaign Finance Reporter. The videos are available on the Board's website. Additionally Board staff participated in panels and spoke to interested groups of the public on the requirements of Chapter 10A.

Use of Technology

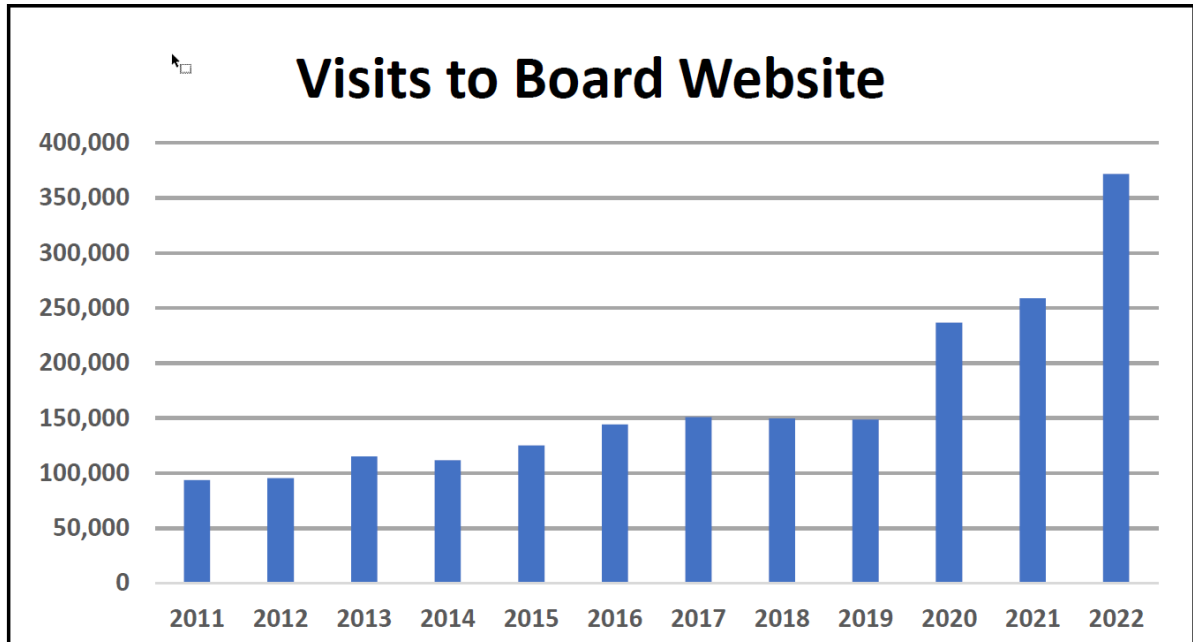
The Board has long recognized the value of receiving disclosure reports in electronic format. Electronic reports may be moved directly into Board databases where the records are analyzed for compliance issues and then exported to the Board's website for faster disclosure to the public. Electronic filing eliminates the cost and errors associated with data entry of paper reports.

To facilitate electronic filing, the Board developed web based applications for filing lobbyist disbursement reports, lobbyist principal reports, and economic interest statements. Use of these web based applications is optional, clients may still file a paper report, but all three applications have participation rates of over 85%, which indicates that clients also prefer electronic filing.

The Board website offers the following:

- Board meeting notices and minutes;
- Board enforcement actions, including findings and conciliation agreements;
- Advisory opinions;
- Lists of lobbyists and principals, candidate committees, political committees, political funds, party units, and public officials;
- Copies of all campaign finance and lobbyist reports;
- Electronic filing for lobbyists and lobbyist principals;
- Electronic filing of statements of economic interest for public officials;
- All Board publications and forms;
- Searchable databases of campaign finance contributions;
- Searchable database of independent expenditures;
- Campaign Finance Summaries;
- Lobbyist Disbursement Summaries;
- Annual Reports of Lobbyist Principal Expenditures; and
- Training videos on campaign finance compliance and the use of Campaign Finance Reporter.

Board Website - cfb.mn.gov



Program Reviews

The Board administers three major and several minor programs as authorized by Minnesota Statutes Chapter 10A. The major programs are campaign finance, lobbying, and economic interest disclosure. The review of each major program includes a general description of the program, a review of legislation passed during the fiscal year that affects the program, a review of any Board advisory opinions issued during the time period for the program area, and an overview of administrative activity that occurred during the fiscal year.

Campaign Finance Program Overview

The Board administers the provisions of Chapter 10A of the Minnesota Statutes. These laws govern campaign finance for principal campaign committees, political committees, political funds, political party units, and independent expenditure committees and funds.

During calendar year 2022, an election year, these committees and funds filed periodic reports disclosing receipts and expenditures. Information on the number of reports filed is found on page 14.

Each filed report is reviewed by Board staff for compliance with the disclosure law requirements, including accurate accounting and reporting and adherence to applicable contribution and expenditure limits. Violations of contribution and expenditure limits are resolved through either a conciliation agreement, or in some cases, a Board order. Information on Board investigations and enforcement actions is found on page 18.

As a part of the campaign finance program the Board administers and regulates the distribution of payments for the state's public subsidy program, which provides public funding to qualified state candidates and the state committees of political parties. Payments are made following the state primary election to candidates and monthly to the state committees of political parties. Information on public subsidy payments made during fiscal year 2022 is found on page 17.

Legislative Action and Rulemaking

The Board focused on legislative proposals for the lobbying program during the 2022 legislative session, and did not pursue legislative recommendations or administrative rule making for the campaign finance program.

Advisory Opinions Issued Related to Campaign Finance Program

The Board issued two advisory opinions regarding the campaign finance program during fiscal year 2022.

- **Advisory Opinion 454** provided that a political party unit may lease meeting space for use by elected members of the party and other individuals who pay a membership fee for use of the facility. Allowing elected members to use the space for less than the cost of leasing the space will result in in-kind contributions that must be reported to the Board. The payment of a membership fee by a non-elected individual constitutes a contribution to the party unit that must also be reported to the Board. If a lobbyist pays a membership fee to the party unit prior to the start of the legislative session, use of the membership during session does not result in a violation of the prohibition on certain contributions during the legislative session.
- **Advisory Opinion 455** provided that a nonprofit corporation may make political contributions in Minnesota as an unregistered association if the nonprofit corporation is organized and operated consistent with requirements provided in Minnesota Statutes section 211B.15, subdivision 15. If the nonprofit corporation makes contributions in excess of \$200 to more than three committees registered with the Board within a calendar year, the nonprofit corporation must register a political committee or fund with the Board. An unregistered association may satisfy the disclosure requirement for a contribution from an unregistered association by providing a written statement to the recipient of each contribution containing the URL of the FEC webpage where the association's federal campaign finance reports may be viewed.

Campaign Finance Disclosure Reports Filed

Below are the number of reports of receipts and expenditures filed by candidates, political party units, and political committees and political funds during the first six months of 2022, and the 2021 year-end report filed in January of 2022.

	Paper	Electronic	Total
Candidate Committees	125	562	687
Political Party Units	95	237	332
Political Committees or Funds	234	969	1,203

Principal campaign committees, political committees, political funds, and political party units have been using the Campaign Finance Reporter software since 1998. The Board provides the software to registered committees without charge. The maintenance, upgrade, training, and helpdesk support for the software is provided by Board staff. The software provides compliance checks and warnings as records are entered, generates electronic reports for filing that reduce the data entry demands on Board staff, and provides contact management tools for the committees that use the software.

Electronic filing of campaign finance reports became mandatory beginning with the 2012 election cycle. The Board may grant a waiver from the requirement to file electronically if the total financial activity of a committee is less than \$5,000, or if there are technical or other valid reasons why the electronic filing requirement would be an unreasonable burden to the committee.

The Board has developed and distributed a XML schema that is the standard for the electronic filing of campaign finance reports using a third party vendor's software. Thirty three committees filed electronically using the

Electronic Filing of Reports

Principal campaign committees, political committees, political funds, and political party units have been using the Campaign Finance Reporter software since 1998. The Board provides the software to registered committees without charge. The maintenance, upgrade, training, and helpdesk support of the software is provided by Board staff. The software provides compliance checks and warnings as records are entered, generates electronic reports for filing that reduce the data entry demands on Board staff, and provides contact management tools for the committees that use the software.

Electronic filing of campaign finance reports became mandatory beginning with the 2012 election cycle. The Board may grant a waiver from the requirement to file electronically if the total financial activity of a committee is less than \$5,000, or if there are technical or other valid reasons why the electronic filing requirement would be an unreasonable burden to the committee.

The Board has developed and distributed a XML schema that is the standard for the electronic filing of campaign finance reports using a third party vendor's software. 31 committees filed electronically using the XML standard. The table below shows the number of committees that file electronic disclosure reports by year.

Reporting Year	Candidate Campaign Committees	Political Committees, Political Funds, and Political Party Units
2020	575	556
2019	516	557
2018	576	582
2017	499	525
2016	557	548
2015	442	524
2014	516	543
2013	479	526
2012	581	594
2011	327	237
2010	376	174

Public Subsidy Payments

The Board administers the distribution of payments for the state's public subsidy program, which provides public funding to qualified state candidates and the state committees of political parties. Payments to qualified candidates during the 2022 state general election were made in fiscal year 2023, and will be detailed in the next annual report of the Board. A report of the public subsidy payments made to each qualified candidate during the 2022 state election is available on the Board's website.

Political Contribution Refund Program

State candidates who sign the public subsidy agreement and political parties are allowed to give political contribution refund receipts to individual contributors. In calendar year 2021 the Department of Revenue issued \$619,000 in refunds based on contributions to candidates, and another \$1,578,000 in refunds based on contributions to political parties.

The state central committees of political parties receive 10% of the tax check-offs to the party account of the State Elections Campaign Fund. Based on monthly certification from the Department of Revenue during fiscal year 2022 the Board made \$64,237 in payments to political parties. By party the payments were as follows:

Political Party Payments

Party	Payment
Democratic Farmer Labor	\$43,510
Republican	\$15,630
Legal Marijuana Now	\$1,281
Grassroots-Legalize Cannabis	\$720
Libertarian	\$811
Independence Alliance	\$2,241

Campaign Finance Enforcement Actions

The Board conducts investigations of possible violations of the provisions of Chapter 10A or those sections of 211B under the Board's jurisdiction. An investigation is started in response to a complaint filed with the Board or may be initiated by staff based on information disclosed on documents filed with the Board.

Investigations of many types of violations are typically resolved by conciliation agreement. The conciliation agreement will set the terms under which the violation is to be remedied, provide for remedial measures to correct the offending behavior, and provide for a civil penalty to the committee. Violations not resolved by conciliation agreement are resolved through the issuance of a Board order. If warranted, the Board may also issue an order stating that no violation occurred.

During fiscal year 2022 the Board entered into twenty-five conciliation agreements to resolve violations of Chapter 10A or Chapter 211B. In fiscal year 2022 the Board also dismissed three complaints at the probable cause determination stage and dismissed two complaints at the prima facie determination stage .

To ensure compliance with disclosure deadlines Chapter 10A provides for late fees applied at the rate of \$50 a day for reports of receipts and expenditures due prior to primary and general elections, and \$25 a day for other reports. Reports that are filed more than 7 days after the Board has sent notice by certified mail of the failure to file a report also incur a \$1,000 civil penalty. Civil penalties and late fees collected by the Board are deposited in the state general fund. A breakdown of late fees and civil penalties collected through enforcement is provided on page 30.

Lobbying Program Overview

The Board administers the provisions of Chapter 10A that govern registration and public disclosure by lobbyists and principals attempting to influence state legislative action, state administrative action, and the official action of metropolitan governmental units.

Lobbyists are required to report disbursements for lobbying purposes to the Campaign Finance and Public Disclosure Board two times each year (January 15 and June 15). On the June 15th report the lobbyist must provide a general description of the subject(s) lobbied on during the previous 12 months.

Individuals or associations that hire lobbyists or spend \$50,000 or more to influence legislative action, administrative action, or the official action of metropolitan governmental units, are principals and are required to file an annual report disclosing total expenditures on these efforts. The report is due March 15th, and covers the prior calendar year.

Legislative Action and Rulemaking

In fiscal year 2022, the Board submitted legislative proposals that would have changed the focus of lobbyist disclosure from reporting the costs associated with lobbying to reporting the subjects of interest that were lobbied on for the principal. The proposal also would have required lobbyists to identify the administrative agencies and metropolitan governmental units that were lobbied. In addition, the proposal would have required the disclosure of any advertising over \$2,000 that urged the public to contact public or local officials to take official actions. The legislative proposal was introduced as House File 2173. A hearing was held on the proposal during the 2021 session, but the bill was not heard in committee during the 2022 session. The Board did not pursue any rulemaking in the lobbying program in fiscal year 2022.

Advisory Opinions Issued Related to Lobbyist Program

In fiscal year 2022 the Board did not issue any advisory opinions related to the lobbying program.

Lobbyist Disbursement Reports

The Board has developed a web-based reporting system for lobbyists. Use of the system is voluntary, but as shown below it is used by most lobbyists as the reporting method of choice. Lobbyist disbursement reports are available for review on the Board website.

Reporting year	Reports filed	Electronically filed
2021	4,319	94%
2020	4,292	94%
2019	4,338	93%
2018	4,201	97%
2017	4,231	95%
2016	4,174	98%
2015	4,076	97%
2014	4,041	96%
2013	3,998	97%
2012	3,823	93%
2011	3,959	94%
2010	3,950	98%

Principal Reporting

Chapter 10A requires principals to file an annual report disclosing expenditures made in Minnesota to influence legislative actions, administrative actions, or official actions by a metropolitan governmental unit. The disclosure is a single number which may be rounded to the nearest \$20,000. Starting in 2012 principals are required to break out the amount spent influencing administrative action of the Minnesota Public Utilities Commission from all other lobbying.

	All Other Lobbying in Minnesota	MN Public Utilities Commission	Total
2021	\$69,005,045	\$5,194,947	\$74,199,992
2020	\$62,974,403	\$5,049,004	\$68,023,406
2019	\$68,408,333	\$7,809,960	\$76,218,293
2018	\$63,727,954	\$15,029,661	\$78,757,615
2017	\$66,029,622	\$9,641,044	\$75,670,666
2016	\$62,140,012	\$6,222,560	\$68,362,572
2015	\$63,947,699	\$5,177,020	\$69,124,719
2014	\$64,517,472	\$5,889,000	\$70,406,472
2013	\$69,185,283	\$5,568,210	\$74,753,493
2012	\$59,060,155	\$2,749,590	\$61,809,745
2011	\$65,241,174		\$65,241,174
2010	\$59,172,799		\$59,172,799

Lobbyist Program Enforcement Actions

In fiscal year 2022, the Board did not conduct any investigations or receive any complaints regarding possible violations concerning the lobbyist program. However, during fiscal year 2022 the Board entered into two conciliation agreements with a lobbyist to resolve a campaign finance violation.

Economic Interest Statement Program Overview

The Board administers the provisions of Chapter 10A of the Minnesota Statutes that govern disclosure of economic interests by public officials and local officials in metropolitan governmental units. There were over 3,190 public officials who filed with the Board in fiscal year 2022. Local officials use forms developed by the Board, but file with the local governmental unit.

Filing of Statements

Original statements of economic interest must be filed at the time of appointment or, for candidates, when the candidate files for office. All incumbent office holders and appointed officials must annually review and recertify their statements. The annual recertification is due by the last Monday in January and covers all time served during the previous calendar year. The Board has developed a web based system for submitting economic interest statements.

During fiscal year 2022, there were 356 state offices, boards, agencies, or commissions with elected or appointed public officials. The Board processed 3,437 statements of economic interest during the fiscal year, 92% of which were submitted using the Board's electronic filing system, and 8% of which were submitted on paper forms.

During the annual recertification period in January of 2022, staff processed 2,991 statements. Of those statements, 93% were filed electronically.

Separate from the annual recertification filing, candidates for state office are required to file an economic interest statement when they file to be on the ballot. In 2022, 450 statements were filed by candidates.

Legislative Action and Rulemaking

The Board did not have legislative recommendations or undertake administrative rulemaking for the economic interest program in fiscal year 2022.

Advisory Opinions Issued Related to the Economic Interest Program

No advisory opinions were issued in the economic interest program in fiscal year 2022.

Other Board Programs

Potential Conflict of Interest

A public or local official who in the discharge of the official's duties would be required to take an action or make a decision that would substantially affect the official's financial interests or those of an associated business must under certain circumstances file a Potential Conflict of Interest Notice, or a written statement describing the potential conflict. If there is insufficient time to comply with the written requirements, oral notice must be given to the official's immediate supervisor of the possible conflict.

If the official is not permitted or is otherwise unable to abstain from action in connection with the matter, the public official must file the notice with the Board and a local official must file with the governing body of the official's political subdivision. The statement must be filed within one week of the action taken.

Local Pension Plans

Members of a governing board of a covered pension plan and the chief administrative officer of the plan are required to file certain statements of economic interest with the governing board under Minnesota Statutes section 356A.06, subdivision 4.

The Office of the State Auditor prescribes the statement and instructions for completing the statement. The chief administrative officer of each covered pension plan must submit to the Campaign Finance and Public Disclosure Board a certified list of all pension board members who filed statements with the pension board no later than January 15th. Approximately 570 pension plans are required to file with the Board under this law. This number has gone down in recent years as covered local pension plans dissolve to join the Statewide Volunteer Firefighter Retirement Plan. The Board does not have jurisdiction over enforcement of this certification requirement.

Public Employees Retirement Association Trustee Candidates

Candidates for election as PERA Trustees are required to file certain campaign finance disclosure reports with the Campaign Finance and Public Disclosure Board under Minnesota Statutes, section 353.03, subdivision 1. Under this statute, the Board prescribes and furnishes to trustee candidates the reporting form and instructions for completing the form.

State Board of Investment

Minnesota Statutes section 11A.075, requires certain disclosure by SBI members upon appointment and SBI employees upon hire and by both annually until termination of appointment or employment. Under this statute, the Board prescribes and furnishes to the members and employees the reporting form and instructions for completing the form.

Representation Disclosure

A public official who represents a client for a fee before any individual board, commission, or agency that has rulemaking authority in a hearing conducted under Minnesota Statutes Chapter 14, and in the cases of rate setting, power plant and power line siting, and granting of certificates of need under Minnesota Statutes section 216B.243, must file a Representation Disclosure Statement within 14 days after the appearance has taken place, disclosing the official's part in the action.

Staff Duties

Executive Director

The executive director facilitates achievement of the Board's goals and objectives, sets the agenda and prepares materials for Board and committee meetings, and directs all agency and staff operations. The executive director also drafts advisory opinions for Board consideration, serves as the Board's representative to the Legislature and the Executive Branch. The executive director is responsible to insure that the information technology resources of the agency are best used to support the Board's missions and goals. The executive director is responsible for the calculation of public subsidy payments made to candidates and political party units. Lastly, the executive director administers the preparation of the biennial budget.

Assistant Executive Director

The assistant executive director serves as advisor to the executive director and assists in management of the operations for the agency. The assistant executive director conducts complex investigations and prepares drafts for Board consideration, reconciles and reports on the Board's financial systems, and supervises the agency's compliance programs. The assistant executive director prepares and conducts training classes for clients on campaign finance reporting requirements.

Legal Analyst—Management Analyst

Two staff members hold this position. The legal analysts – management analysts perform legal analysis, make recommendations, and assist in agency administrative rule-making, the conduct of Board investigations, and drafting findings and orders for Board consideration. These positions also serve as internal management consultants providing support and analysis to the executive director and assistant executive director.

Compliance Officer

The compliance officer provides for distribution, collection, data entry, and filing of campaign finance registrations and reports required by Chapter 10A. The compliance officer reviews the reconciliation of reported contributions, performs compliance checks on campaign finance reports filed with the Board, assists in the conduct of Board audits, and monitors cases for Revenue Recapture

Lobbying Program Administrator

The compliance officer also provides compliance advice and guidance to Board staff and clients.

The programs administrator provides for distribution, collection, data entry, and filing of lobbyist disclosure required by Chapter 10A. The programs administrator collects, stores, and retrieves data for the preparation and analysis of summaries of documents filed with the Board. The programs administrator also provides database advice and guidance to Board staff and clients.

Information Technology Specialist III Database Management

This information technology specialist develops, maintains, and manages complex database applications to support administration of all Board programs and activities. The position provides technical service, LAN administration, and training to Board staff. The position also develops, administers, and provides technical support for the Board's website and provides client training and support in the use of the Campaign Finance Reporter software.

Information Technology Specialist III Application Development

This information technology specialist ensures that the technology resources of the Board support applicable business rules and statutory obligations. The position develops online applications for use by clients in reporting to the Board. The position also develops and administers applications for use by staff and in response to management requests. The position also supports multiple complex relational databases.

Staff Salaries FY 2022

Position	Staff Member	FY 2022
Executive Director	Jeffrey Sigurdson	\$128,010
Assistant Director	Megan Engelhardt	\$108,832
Legal - Management Analyst	Jodi Pope (retired in March)	\$62,005
Legal—Management Analyst	Will Hager (started in June)	\$3,009
Legal - Management Analyst	Andrew Olson	\$73,153
Investigator	Melissa Stevens	\$63,809
Information Technology Specialist 3	Jon Peterson	\$101,126
Information Technology Specialist 3	Gary Bauer	\$92,082
Management Analyst 1	Erika Ross	\$53,104
Total Salaries		\$685,134

Board Financial Information FY 2022

The Campaign Finance and Public Disclosure Board is funded by a direct appropriation from the Minnesota Legislature. The Board's operational appropriation for fiscal 2022 was \$1,145,000. Funds not expended in the first year of a biennium roll forward into the next fiscal year and funds not expended in the second year of a biennium are returned to the state general fund. The majority of the amount available for carryforward to fiscal year 2023 is a result of salary savings.

Income Summary	FY 2022
Appropriation	\$1,145,000
Expenditure Summary	
Operating budget expenditures	(\$1,023,777)
Carry forward to FY 2023	\$121,233

Board Operating Budget—FY 2022

Salary and Benefits	FY 2022
Full time staff (salary and fringe)	\$924,566
Retirement Benefit Payout	\$13,007
Per diem for Board Members	\$3,400
Workers compensation insurance	\$478
Salary and Benefits Sub Total of Expenditures	\$941,451

Operating Expenses	FY 2022
Office rent	\$35,837
Copier lease	\$6,767
Postage	\$11,710
Printing	\$1,658
Staff development	\$445
Supplies	\$3,508
MNIT services	\$13,855
Court reporter, subpoena, and court filing costs	\$935
Equipment	\$934
Computer systems development - software	\$5,007
Travel	\$350
Miscellaneous Costs	\$1,320
Operating Expense Sub Total of Expenditures	\$82,326

Board Operating Total Expenditures	\$1,023,777
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Penalties Paid for Late Filing Fees and Other Violations of Chapter 10A

The following is a listing of fees and fines paid during the fiscal year. Some fees and fines may have been assessed prior to fiscal year 2022.

Late Filing Fees	FY 2022 Dollars Paid	Number of Violations
Candidate Campaign Committees	\$3,960	22
24-Hour Notice	\$6,700	15
Political Committees and Funds	\$3,325	20
Political Party Units	\$4,225	14
Economic Interest Statements	\$390	8
Lobbyist Disbursement Reports	\$5,083	44
Lobbyist Principal Annual Reports	\$2,675	11
Total Late Fees	\$26,359	134
Civil Penalties	FY 2022 Dollars Paid	Number of Violations
Contribution from Unregistered Association		
Corporate Contribution	\$750	2
Contribution Limits Violations		
Candidates Accepted in Excess of Limit	\$1,081	7
Special Source Aggregate Limit	\$7,335	6
Candidate Failure to Keep Records	\$475	1
Political Committee Contribution in Excess of Limit	\$150	2
Prohibited Contributions During Session		
Lobbyist	\$125	1
Candidate	\$500	2
Failure to File Disclosure Report		
Candidate Committees	\$3,040	6
Political Committees and Funds		
Lobbyists	\$1,160	1
Lobbyist Principals	\$2,000	2
Conversion of Committee Funds	\$1,302	6
Disclaimer	\$200	2
Party Unit Failure to Keep Records	\$3,000	1
Total Civil Penalties	\$19,119	37
Total Late Fees and Civil Penalties Deposited in State General Fund	\$45,478	171



MINNESOTA CAMPAIGN FINANCE BOARD

DATE: November 7, 2022

TO: Board Members

FROM: Jeff Sigurdson
Executive Director

TELEPHONE: 651-539-1189

SUBJECT: **Yearly Update on Reconciliation of Contributions between Registered Committees**

Background

In the fall of 2013, the Star Tribune published an article describing problems found in the database of contributions to state candidates, political party units, and political committees and funds provided to the paper by the Campaign Finance and Public Disclosure Board. In particular the Star Tribune found that it could not reconcile over \$20 million dollars in contributions reported between registered committees during the years 2000 to 2012. Staff confirmed that the problems identified in the article existed, and during the remainder of 2013, all of 2014, and the first quarter of 2015, worked to reduce the number of contributions between registered entities that did not reconcile.

At the August 2015 Board meeting staff reported to the Board on the progress made in reconciling contributions, and reported on nine steps implemented by the executive director to minimize unreconciled contributions in future reporting years. The Board directed staff to stop the active reconciliation of contributions made prior to 2014, and to report annually to the Board regarding the reconciliation of contributions for the prior reporting year. This memo provides the status of the reconciliation of contributions between registered entities reported in 2021.

Reconciliation of 2021

The 2021 year-end reports of receipts and expenditures were due on January 31, 2022. The reports were processed using procedures designed to limit the number of unreconciled contributions caused by data entry errors. These procedures include double checking the data entry of paper reports by staff and requiring treasurers to submit complete amended reports if warranted.

In Table 1 the 2021 reconciliation numbers are highlighted in grey. The years 2010 – 2020 are provided for comparison.

Table 1

Year	Total Itemized Transfers Between Registered Committees	Amount Initially Not Reconciled	Percentage Initially Reconciled	Current Amount Not Reconciled	Percentage Currently Reconciled
2010	\$25,459,972	\$4,791,084	81.18%	\$31,968	99.87%
2011	\$4,087,836	\$500,960	87.75%	\$5,870	99.86%
2012	\$32,772,360	\$4,326,600	86.80%	\$19,614	99.94%
2013	\$4,506,703	\$417,657	90.73%	\$8,167	99.82%
2014	\$24,647,813	\$1,955,927	92.06%	\$30,561	99.88%
2015	\$5,125,778	\$530,272	89.65%	\$1,430	99.97%
2016	\$32,920,683	\$5,621,789	83.02%	\$20,858	99.94%
2017	\$5,548,494	\$180,393	96.69%	\$7,175	99.87%
2018	\$43,457,655	\$2,514,075	94.21%	\$10,500	99.98%
2019	\$8,015,000	\$363,378	95.47%	\$5,165	99.93%
2020	\$40,444,505	\$2,533,949	93.73%	\$3,065	99.98%
2021	\$7,792,135	\$645,533	91.71%	\$17,750	99.77%
Totals	\$234,778,934	\$23,736,730	89.88%	\$162,123	99.93%

The reconciliation process takes considerable staff time to complete. Staff initially reached out informally through email to treasurers with a reconciliation issue and asked them to review their records on specific contributions. A significant number of problems were resolved through emails and subsequent amendments. Formal letters requiring a response were mailed to 46 candidate committees and 232 political committees and party units in April and June of this year. In almost all cases, amendments were secured from the donor, the recipient, or both to resolve the discrepancies. Staff is still working with five committees to resolve contributions that do not reconcile.



MINNESOTA CAMPAIGN FINANCE BOARD

Date: November 7, 2022

To: Board Members

From: Jeff Sigurdson
Executive Director

Subject: **Guidelines for civil penalties in conciliation matters**

Most conciliation agreements are to resolve excess or improper contribution violations. The Board has discretion to impose a civil penalty of up to four times the amount of the violation¹. Additionally, when a violation occurs, the committee must always return the excess and/or improper contribution to the donor, or to the state if the donor committee has terminated.

Although the Board considers each case on its own merits, many of the violations considered by the Board are very similar. Consequently, the penalties imposed for those violations also are very similar. Starting in 2014, the Board typically has imposed a civil penalty in the amount of the excess and/or improper contribution. The Board has required immediate payment of 25% of the imposed civil penalty and has stayed payment of the remaining 75% of the penalty until the end of the next election segment on the condition that the committee have no similar violations during that time. If the penalty is greater than \$100 but 25% of the penalty is less than \$100, the Board has required immediate payment of \$100, with the remainder stayed. If the committee has another similar violation, then the outstanding civil penalty is due immediately. If the committee has no other similar violations by the end of the next election cycle segment, the outstanding civil penalty is waived. In situations where the amount of the excess and/or improper contribution was \$100 or less, no part of the civil penalty is stayed.

Member Swanson has provided a proposal for Board consideration that would change the presumption used to draft the penalty for conciliation agreements. Under the proposal, no portion of the penalty is stayed unless specific circumstances make staying a portion of the penalty clearly warranted. Member Swanson's proposal is:

In preparing a conciliation agreement for the Board's consideration, staff may recommend that the other party to the agreement pay a civil penalty. Staff will not recommend that a portion of the penalty be stayed unless the staff determines, under the particular circumstances of the case, that there is a need to provide a monetary

¹ [Minnesota Statutes section 10A.28](#).

incentive to ensure the party's compliance in the future. In making that determination, the staff shall consider, among other factors, the following: (1) prior recent history of violations; (2) lack of relevant experience/need for education; (3) failure to take advantage of Board educational programs; and (4) failure to cooperate in an investigation.

Other factors that the Board must consider when applying discretion over the amount of a fine are provided in Minnesota Statutes section 14.045, subdivision 3, which include:

- (1) the willfulness of the violation;
- (2) the gravity of the violation, including damage to humans, animals, and the natural resources of the state;
- (3) the history of past violations;
- (4) the number of violations;
- (5) the economic benefit gained by the person by allowing or committing the violation; and
- (6) other factors that justice may require.

Staff requests that the Board provide guidance on whether to adopt Member Swanson's proposal for the civil penalty provided in conciliation agreements. If the proposal is adopted, staff would suggest that the change is implemented for violations that occur after the 2021-2022 election cycle.



MINNESOTA CAMPAIGN FINANCE BOARD

Date: November 7, 2022

To: Board members
Counsel Hartshorn

From: William Hager, Legal/Management Analyst

Subject: Enforcement report for consideration at the November 14, 2022, Board meeting

A. Discussion Items

1. Request to refer matter to the Attorney General's Office – Lobbyist Ernest Avalos III

Ernest Avalos III (4723) has been a lobbyist registered with the Board since February 7, 2020. Mr. Avalos failed to file his lobbyist disbursement report that was due June 15, 2022. He has incurred the maximum late filing fee of \$1,000. There is no civil penalty because a certified letter was not sent. Numerous notices were sent to Lobbyist Avalos regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

2. Request to refer matter to the Attorney General's Office – Lobbyist Meagan Perry

Meagan Perry (4844) has been a lobbyist registered with the Board since November 13, 2020. Ms. Perry failed to file her lobbyist disbursement report that was due June 15, 2022. She has incurred the maximum late filing fee of \$1,000. Ms. Perry also owes a late filing fee of \$75 for the Lobbyist Disbursement Report due June 15, 2021. There is no civil penalty because a certified letter was not sent. Numerous notices were sent to Lobbyist Perry regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

3. Request to refer matter to the Attorney General's Office – Lobbyist Stephanie Ohlmann

Stephanie Ohlmann (4861) has been a lobbyist registered with the Board since January 1, 2021. Ms. Ohlmann failed to file her lobbyist disbursement report that was due June 15, 2022. She has incurred the maximum late filing fee of \$1,000. There is no civil penalty because a certified letter was not sent. Numerous notices were sent to Lobbyist Perry regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

4. Request to refer matter to the Attorney General’s Office –Lobbyist Principal Trace

Trace (7629) was a lobbyist principal that had one lobbyist registered with the Board from June 1, 2019 through May 28, 2021 and filed annual reports with the Board for 2019 and 2020. Trace failed to file its Annual Report of Lobbyist Principal that was due March 15, 2022 for the 2021 calendar year. Trace has incurred the maximum late filing fee of \$1,000 and the maximum civil penalty of \$1,000. Numerous notices were sent to Trace regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General’s Office to seek an order compelling filing the report and payment of the balance owed.

5. Request to refer matter to the Attorney General’s Office –Lobbyist Principal Environment America dba Environment Minnesota

Environment America dba Environment Minnesota (6403) was a lobbyist principal that had lobbyists registered with the Board from 2010 through May 31, 2021, and filed annual reports with the Board for 2010 through 2020. Environment America failed to file its Annual Report of Lobbyist Principal that was due March 15, 2022, for the 2021 calendar year. Environment America has incurred the maximum late filing fee of \$1,000 and the maximum civil penalty of \$1,000. Environment America further owes a \$675 late filing fee for the 2019 Annual Report of Lobbyist Principal. Numerous notices were sent to Environment America regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General’s Office to seek an order compelling filing the report and payment of the balance owed.

6. Request to refer matter to the Attorney General’s Office – Ashley Burg (Senate candidate)

Ms. Burg filed her affidavit of candidacy on May 31, 2022. Her original statement of economic interest due June 14, 2022, has not been filed. Ms. Burg has incurred the maximum late filing fee of \$100 and the maximum civil penalty of \$1,000 for the EIS. Multiple notices were sent to Ms. Burg regarding the need to file the EIS. Staff is asking the Board to refer the matter to the Attorney General’s Office to seek an order compelling filing of the EIS and payment of the balance owed.

B. Waiver Requests

#	Committee/ Entity	Late Fee/ Civil Penalty	Report Due	Factors	Prior Waivers	Recommended Action
1	MPA Political Action Committee (41040)	\$100 LFF	September 2022	Report due September 27, 2022, and filed October 3, 2022. Treasurer thought report had been submitted prior to the deadline and when contacted by Board staff before the due date, he was unable to file the report because he was out of town. Board staff was able to verify the PAC tried to submit a report on September 15, 2022 but the process did not complete, likely due to internet issues on the PAC's end. Ending cash balance of \$2,610 as of October 24, 2022.	\$150 of \$300 LFF for the 2012 pre-general report	Waive

2	UAW Minnesota CAP Council Political Fund (30035)	\$25 LFF	September 2022	Report due September 27, 2022, and filed September 28, 2022. Had telephone call with Board staff on 27th at which time she thought the report was submitted along with an amended pre-primary report. The Board received the amendment but not the September report, so she filed it the next day. Ending cash balance of \$28,785 as of October 24, 2022.	\$150 of \$275 LFF for the 2011 year-end report	Waive
3	Zupancich for Senate (18863)	\$500 LFFs	Pre-Primary 24-Hour Notice (x2) 2022 Pre-Primary	\$400 in LFFs for two 24-hour notices due July 24, 2022, but not filed until July 28, 2022. \$100 LFF for pre-primary report due July 25, 2022, but not filed until July 27, 2022. Former treasurer had a partner with serious health issues. Said computer issues were partially to blame. Once candidate took over reporting, issues quickly resolved. New treasurer now in place. Ending cash balance of \$9,383 as of October 24, 2022.	None	Waive
4	PAL 9 National Association of Letter Carriers (40246)	\$100 LFF	September 2022	Report due September 27, 2022, and filed October 3, 2022. Report was late due to internet connection not being compatible with CFB software. Was able to file once learned of mistake and used different internet. Ending cash balance of \$8,440 as of October 24, 2022.	None	Waive
5	Roger Kittelson 20A Campaign Committee (18956)	\$550 LFF	2022 Pre-Primary	Report due July 25, 2022, and filed received by the Board August 9, 2022. Treasurer attempted to file the report on July 23, 2022, after talking with Board IT staff but the report was not received that day. When the treasurer realized the report was not received by the Board he again contacted Board staff August 7, 2022, spoke with Board IT staff on August 8, 2022, to resolve the issue and was able to submit on August 9, 2022. Ending cash balance of \$559 as of October 24, 2022.	None	Waive
6	Leigh Finke for MN (18807)	\$1,000 LFF	Pre-Primary 24-Hour Notice	Notice due August 5, 2022, and provided October 10, 2022. Contribution totaled \$1,000. Notice was not provided timely due to the treasurer not understanding the software. New treasurer has been put in place. Ending cash balance of \$18,323 as of October 24, 2022. Board typically reduces \$1,000 LFFs for 24-hour notices to \$250 for a first-time violation.	None	Reduce to \$250

7	NAPAC-MN (41276)	\$225 LFF	September 2022	Report due September 27, 2022, and filed October 10, 2022. This was a no-change statement. Report was late due to not understanding the due dates. Was recently provided a list of the due dates to prevent further issues in the future. Pre-general report was filed on time and listed an ending cash balance of \$821. Committee has had very minimal financial activity.	\$450 LFF for 2022 1st Quarter report waived as committee had not reached \$750 registration threshold.	No Recommendation
8	MN Green Industry PAC (70053)	\$100 LFF	September 2022	Report due September 27, 2022, and filed October 3, 2022. Report was late due to internal staff transitions. Ending cash balance of \$5,219 as of October 24, 2022.	None	No Recommendation

C. Informational Items

1. Payment of late filing fee for September 2022 report of receipts and expenditures

Minnesota Conservative PAC, \$25

Minnesota Seasonal Recreational Property Owners PAC, \$100

2. Payment of late filing fee for 2022 pre-primary report of receipts and expenditures

Livingston (Nancy) for Senate, \$150

5th Congressional District IAP, \$50

3. Payment of late filing fee for 2022 pre-primary notice of large contribution

Dr. Scott Jensen for Governor, \$2,000 (\$1,000 x2)

4. Payment of late filing fee for June 2022 report of receipts and expenditures

IAFF-Local #1935 PAC, \$25

5. Payment of late filing fee for lobbyist disbursement report due 6/15/2022

Kayla Christensen, \$50

Hue Nguyen, \$50

Grace Keliher, \$25

6. Payment of late filing fee for lobbyist principal report due 3/15/2022

MN Energy Forum Action, \$150

7. Payment of late filing fee for original EIS

Ethan Cha, \$75

8. Payment of civil penalty for disclaimer violation

Lisa Hanson for Senate, \$200

9. Forwarded anonymous contributions

Greg Boe for State House, \$50

1st Congressional District RPM, \$25

Keith Ellison for Attorney General, \$130



MINNESOTA

CAMPAIGN FINANCE BOARD

October 14, 2022

CERTIFIED & FIRST CLASS MAIL

Ernest Avalos III
710 7th St SE Apt 2
Minneapolis, MN 55414

Re: Lobbyist Disbursement Report due on 06/15/2022
Reg. No. 5785

Dear Ernest Avalos III,

On June 15, 2022, you were required by law to file with the Campaign Finance and Public Disclosure Board a Lobbyist Disbursement Report for OutFront MN. The lobbyist disbursement report discloses the disbursements made by you and your association between January 1, through May 31, 2022. On May 23, 2022, a notice was sent to you as a reminder of the requirement to file the report. Board staff have attempted to contact you several times leading up to, and after the report deadline.

You have failed to file the Lobbyist Disbursement Report which was due June 15, 2022. As a result, you have incurred the maximum late filing fee of \$1,000.

If we do not receive the Lobbyist Disbursement Report from you within 14 days of receiving this letter, we will request that the Campaign Finance and Public Disclosure Board (Board) consider referring your case to the Attorney General's Office due to your failure to file the report.

Please contact me with any questions or concerns.

Respectfully,

Megan Engelhardt
Assistant Executive Director
651-539-1182 / megan.engelhardt@state.mn.us



MINNESOTA

CAMPAIGN FINANCE BOARD

October 14, 2022

CERTIFIED & FIRST CLASS MAIL

Meagan Perry
149 T St NW, Unit 1
Washington, DC 20001

Re: Lobbyist Disbursement Report due on 06/15/2022
Reg. No. 4844

Dear Meagan Perry,

On June 15, 2022, you were required by law to file with the Campaign Finance and Public Disclosure Board a Lobbyist Disbursement Report for Orchard Therapeutics. The lobbyist disbursement report discloses the disbursements made by you and your association between January 1, through May 31, 2022. On May 23, 2022, a notice was sent to you as a reminder of the requirement to file the report. Board staff have attempted to contact you several times leading up to, and after the report deadline.

You have failed to file the Lobbyist Disbursement Report which was due June 15, 2022. As a result, you have incurred the maximum late filing fee of \$1,000. You also owe a \$75 late filing fee for the Lobbyist Disbursement Report which was due on June 15, 2021.

If we do not receive the Lobbyist Disbursement Report from you within 14 days of receiving this letter we will request that the Campaign Finance and Public Disclosure Board (Board) consider referring your case to the Attorney General's Office due to your failure to file the report.

Please contact me with any questions or concerns.

Respectfully,

Megan Engelhardt
Assistant Executive Director
651-539-1182 / megan.engelhardt@state.mn.us



MINNESOTA

CAMPAIGN FINANCE BOARD

October 14, 2022

CERTIFIED & FIRST CLASS MAIL

Stephanie Ohlmann
555 Park St
St. Paul, MN 55103

Re: Lobbyist Disbursement Report due on 06/15/2022
Reg. No. 4861

Dear Stephanie Ohlmann,

On June 15, 2022, you were required by law to file with the Campaign Finance and Public Disclosure Board a Lobbyist Disbursement Report for Protect Minnesota. The lobbyist disbursement report discloses the disbursements made by you and your association between January 1, through May 31, 2022. On May 23, 2022, a notice was sent to you as a reminder of the requirement to file the report. Board staff have attempted to contact you several times leading up to, and after the report deadline.

You have failed to file the Lobbyist Disbursement Report which was due June 15, 2022. As a result, you have incurred the maximum late filing fee of \$1,000.

If we do not receive the Lobbyist Disbursement Report from you within 14 days of receiving this letter, we will request that the Campaign Finance and Public Disclosure Board (Board) consider referring your case to the Attorney General's Office due to your failure to file the report.

Please contact me with any questions or concerns.

Respectfully,

Megan Engelhardt
Assistant Executive Director
651-539-1182 / megan.engelhardt@state.mn.us



MINNESOTA

CAMPAIGN FINANCE BOARD

October 14, 2022

CERTIFIED & FIRST CLASS MAIL

Ashley Moore
Trace
47 Maple St Ste 111
Burlington VT, 05401

Re: 2021 Annual Report of Lobbyist Principal Report due on 03/15/2022
Reg. No. 7629

Dear Ashley Moore,

On March 15, 2022, you were required by law to file with the Campaign Finance and Public Disclosure Board an Annual Report of Lobbyist Principal for Trace. The annual principal report discloses the total expenditures made by your association in 2021 for lobbying in Minnesota. On February 15, 2022, a notice was sent to you as a reminder of the requirement to file the report. Board staff have attempted to contact you several times leading up to, and after the report deadline.

You have failed to file the 2021 Annual Report of Lobbyist Principal which was due March 15, 2022. As a result, you have incurred the maximum late filing fee of \$1,000. In addition to the late fee, you are also subject to a civil penalty imposed by the Board of up to \$1,000.

If we do not receive the 2021 Annual Report of Lobbyist Principal within 14 days of receiving this letter we will request that the Campaign Finance and Public Disclosure Board (Board) consider referring your case to the Attorney General's Office due to your failure to file the report.

Please contact me with any questions or concerns.

Respectfully,

Megan Engelhardt
Assistant Executive Director
651-539-1182 / megan.engelhardt@state.mn.us

Cc: Patrick Hynes
Messerli & Kramer PA
525 Park St Ste 130
St. Paul, MN 55103



MINNESOTA

CAMPAIGN FINANCE BOARD

October 14, 2022

CERTIFIED & FIRST CLASS MAIL

Tim Schaefer
Environment America dba Environment Minnesota
211 N 1st St #480
Minneapolis, MN 55401

Re: 2021 Annual Report of Lobbyist Principal Report due on 03/15/2022
Reg. No. 6403

Dear Tim Schaefer,

On March 15, 2022, you were required by law to file with the Campaign Finance and Public Disclosure Board an Annual Report of Lobbyist Principal for Environment America dba Environment Minnesota. The annual principal report discloses the total expenditures made by your association in 2021 for lobbying in Minnesota. On February 15, 2022, a notice was sent to you as a reminder of the requirement to file the report. Board staff have attempted to contact you several times leading up to, and after the report deadline.

You have failed to file the 2021 Annual Report of Lobbyist Principal which was due March 15, 2022. As a result, you have incurred the maximum late filing fee of \$1,000. In addition to the late fee, you are also subject to a civil penalty imposed by the Board of up to \$1,000. You also owe a \$675 late fee for the 2019 Annual Report of Lobbyist Principal which was due March 15, 2020.

If we do not receive the 2021 Annual Report of Lobbyist Principal within 14 days of receiving this letter we will request that the Campaign Finance and Public Disclosure Board (Board) consider referring your case to the Attorney General's Office due to your failure to file the report.

Please contact me with any questions or concerns.

Respectfully,

Megan Engelhardt
Assistant Executive Director
651-539-1182 / megan.engelhardt@state.mn.us

CC: Timothy Schaefer
1119 W. Franklin Ave. #208
Minneapolis, MN 55405



MINNESOTA

CAMPAIGN FINANCE BOARD

October 14, 2022

CERTIFIED & FIRST CLASS MAIL

Ashley Burg
23880 Co Rd 50
Cold Spring, MN 56320

Re: Candidate Statement of Economic Interest due June 14, 2022

Dear Ashley Burg,

On June 14, 2022, you were required by law to file with the Campaign Finance and Public Disclosure Board your Candidate Statement of Economic Interest. This filing is a statutory requirement of all candidates for state-level office. You must file this statement even if you do not register a committee with the Board or actively campaign for office.

You have failed to file your Candidate Statement of Economic Interest which was due June 14, 2022. As a result, you have incurred the maximum late filing fee of \$100. In addition to the late fee, you are also subject to a civil penalty imposed by the Board of up to \$1,000.

If we do not receive your Candidate Statement of Economic Interest within 14 days of receiving this letter we will request that the Campaign Finance and Public Disclosure Board (Board) consider referring your case to the Attorney General's Office due to your failure to file your statement.

Please contact me with any questions or concerns.

Respectfully,

Megan Engelhardt
Assistant Executive Director
651-539-1182 / megan.engelhardt@state.mn.us

From: [Steven Girardeau](#)
To: [Olson, Andrew \(CFB\)](#)
Subject: RE: September Report of Receipts and Expenditures Due September 27
Date: Monday, October 03, 2022 12:54:26 PM

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Hello Andrew,

We spoke while I was out of town re: the September report. I believe I filed it but cannot find a receipt email from you all so it appears there was a hiccup in the process that I missed. I did just send it in, I am asking for relief from the penalties as I in good faith tried to send it in early, before my travels, and was unable to immediately respond due to that travel.

Please let me know if you have any questions or concerns.

Steve Girardeau MPA PAC

From: [Stevens, Melissa \(CFB\)](#)
To: [Engelhardt, Megan \(CFB\)](#)
Subject: FW: September 2022 Report
Date: Wednesday, September 28, 2022 3:38:46 PM

Megan,

I was on the phone with her when she was working on both reports. For some reason, only the amended pre-primary came over. The September did not. I

I stayed on the phone with her again today while she tried again.

Melissa

From: Wheeler, Deann <DWheeler@uaw.net>
Sent: Wednesday, September 28, 2022 3:34 PM
To: Stevens, Melissa (CFB) <melissa.stevens@state.mn.us>
Subject: September 2022 Report

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Melissa,

Per our phone conversation this afternoon, I wanted to let you know that I did file my September PAC report yesterday as required. Prior to completing the current report, I amended the previous report as I found an error in the receipts. After the amendment was uploaded, I continued with completing the September 2022 report.

When I went onto the website to print copies today, my September report was not there. Apparently, just the amended report from July uploaded. Today, I uploaded the September report once more and it was accepted again. Is there any way you can wave the late fee as my report was submitted but did not upload, but the amendment did. Please feel free to contact me should you have any questions.

Thanks,
Dee

*Dee Wheeler
Bookkeeper
UAW Region 4 Office
900 E. Center Street
Ottawa, IL 61350
(815) 324-0399*

August 31, 2022

MN Campaign Finance Board

ATTN: Megan Engelhardt

RE: Fines for Candidate #18863 Andrea Zupancich, St Senate Distr 3

Good Morning!

Please consider this letter as a formal request for waiver for the two sets of fines that were issued to Candidate #18863. One for \$100 Late Filing Fee and one for \$400 24 hour late filing fee for checks over \$500.00 I would like to explain why I am requesting a waiver for these fines.

\$100 Late filing fee. I'm not sure at what point what had started happening, but my previous Treasurer, Marie Rinta, had been going through some very difficult times with her partner. He has had ongoing health issues and doctoring, and recently has been diagnosed with Alzheimer. Unbeknownst to myself, and it had been getting significantly worse. She also owns a Bar/Restaurant/Off Sale business in town and had stressors with the economy and enough staffing. She was essentially the solo operator of the Business since he could not help. She had not been communicating that to me. I had always been giving her the donations so she could enter and record as they came in and would ask her weekly what the status of the account was. She would tell me, and I would go on to the next appointment.

We were also in the planning stages of my first fundraiser, slated for July 23, 2022. I had kept asking her about the report that was due and if she had it done yet, and if it was going to be submitted on time. Not once did she tell me his health was failing more and getting worse, we also had an accepted offer on the Bar/Restaurant so proceeding forward with the sale of that, but she still had a working establishment she had to continue running in the meantime. She assured me it would be turned in and all was going smoothly. There were only a few times that she mentioned she was having issues with the software, and it was the "worst she had ever worked with". I asked her if she had reached out for help from the Campaign Board, to which she responded that she had, but she was still having issues, was on the phone with them for long periods of time and had lost connection and was waiting for a call back. I honestly didn't think anything of it because we still had time.

We had the fundraiser, and she collected all the money the following day, Sunday July 24, 2022. The money was deposited into the bank on Monday July 25, 2022

Monday July 25, 2022, I was door knocking in a town in my district, 2 hrs. from my home. I had called to follow on the report and the details of how I did. That is when I found out the report had NOT been submitted, she was again on the phone all day, with her cousin who is "tech savvy" as she put it, and even she could not figure it out. I immediately jumped in my car to get back to town (2 hrs away) to see what the issue was. I had been playing phone tag with Megan Engelhardt throughout the day saying she had difficulties with the program, and it wasn't working for her. Finally, when I was able to talk to Megan directly vs phone tag, she told me the difficulties that they had in working with Marie, and the claims the program was doing things it couldn't do. She also mentioned four different people tried helping her and they were unable to help her at all and it was the first time she had heard any of them say that.

I got into town and collected all the information, checkbook, receipts, etc. from Marie. I was angry, upset, crying etc. Couldn't believe my good friend had done this to me, etc. I told her it was bad, and that if she didn't want to do this, she should have told me weeks, if not months ago that she was having problems. She claimed she had it finished, but it showed much less than what I had physically collected so I knew it was wildly incorrect. I started redoing the entire account that evening, until 1 am. The next day I was able to get in touch with the Finance Board early in the morning, and they helped me get underway and entering all the data – completely new. This was when I realized much more was going on. As I began working with the program more and more, I realized one major mistake she had done was hopping

from device to device and the devices were not talking to each other, not web based. I was able to finish it at 11:45pm that evening and submitted it, two days late.

I am asking for a waiver for this issue, because had I discovered and known she was having issues with the program prior and knew what was going on with her personal and work life, I would have chosen a different treasurer, and I would have made sure all was done on time. It wasn't until I found out the report had not been submitted, that I was able to jump into action and get all into compliance. If I had even known even a week prior, it would have been submitted on time and none of this would have happened.

\$400 late 24 hour notice filing. This issue goes hand in hand with the above issue. When I was able to talk to Megan about recording and entering is when I realized two checks had not been recorded/entered in within the 24-hour period. While I had not physically seen them or even known about them, I realized during this conversation they had not been entered into the system. Since my committee (Former Treasurer) physically had them, and they did not get recorded, I therefore received the fine. I entered them in immediately when I knew and had knowledge of them. They were deposited into the bank the very next business day of the Fundraiser, but not entered in the system timely.

I'm unsure if that is what my previous Treasurer deemed entered within 24 hours? I have since taken her off Treasure Account and instated Kirsten Zupancich. Once I had the knowledge of the requirement it was immediately taken care of. I am asking for a waiver of these fines as well. When I'm receiving donations of \$50 and \$100, even \$20 it takes a long time to make you that money. Especially in a depressed economy and town with laid off Mine Workers.

The issues with the treasurer all happened at one time. While getting fined for two separate issues, both issues were happening at the same time. Timing wise if I had known about the issue even a week prior, none of these fines would have happened.

I am hoping the board can see these reasons as acceptable reasons to waive the fines. They were not done willingly, intentionally, or knowingly.

Sincerely



Andrea Zupancich

#18863 Candidate State Senate Dist 3

From: [Jim](#)
To: [Engelhardt, Megan \(CFB\)](#)
Subject: Report due September 27
Date: Thursday, October 13, 2022 4:24:58 PM

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Megan

I send my report on Sept 23. I talk with you Megan and Gary Bauer on Monday the 3rd. After awhile Gary said my internet service was not working with the software I had to go to a caribou and use their internet. I just moved and got a different internet service. I wish to have my late filing fee waived, I can not help that my internet service does not work with your software.

Looks like I'll be going to Caribou to do any downloads for the Campaign Finance Board.

Thank you very

Jim Fodstad

PAL 9 NALC

Reg no 40246

Sent from [Mail](#) for Windows

From: [Roger Kittelson](#)
To: [Engelhardt, Megan \(CFB\)](#)
Cc: kittelso20A@gmail.com
Subject: Letter October 10 regarding Last filing fee #18956 -
Date: Thursday, October 13, 2022 7:11:25 PM

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October 13, 2022

Ms. Engelhardt;

Thanks for your letter regarding my CFB report which is Roger Kittelson 20A Campaign Committee registration number 18956.

My notes indicate that on July 23, 2022 that I filed with the CFB the receipts and expenditures that were due on July 25, 2022. I am not good with computer technology and your Associate Mr. Gary Bauer at 651-539-1185 helped me with the CFB computer system on July 23, 2022. I have copies of the receipts report and the expenditures report from that day. After Mr. Bauer helped me with the receipts and expenditures he directed me to download this information. He hung up the phone and I downloaded and sent the file.

1. Later, I checked to see how much the other candidates had spent, as the Republicans had a primary, and my section did not have any information. I emailed you on August 7 to discover why my financial information was not included. On August 8th I called Mr. Bauer and he walked me through your system to download it again and let me know if had been received.
2. I was told that I would not be out of compliance for the computer problems. I have followed the CFB directions and have asked and received computer assistance. I wanted to use this computer technology to make it easier to the CFB. I struggle with computer technology, but I wish to make it easier for your team.
3. Please waive this late filing fee as I did comply by filing with your assistance on July 23, 2022 and I was verbally told on the phone that there would be no late filing fee.

Thanks for your time.

Roger Kittelson
House 20A Mn Independent Candidate
#18956

From: [Andrew DeYoung](#)
To: [Engelhardt, Megan \(CFB\)](#)
Subject: Leigh Finke campaign fine payment
Date: Sunday, October 30, 2022 4:41:03 PM

This message may be from an external email source.

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Megan,

I am writing to arrange the payment of a fine from the Leigh Finke campaign, for failure to report a contribution in the amount of \$1000, dated 8/4/2022, within 24 hours. That report has since been filed but not before the fine accrued to the max of \$1000.

Since the campaign treasurer at the time was having difficulty understanding the software and has since turned over treasurer duties to me, I would like to ask that a waiver be considered to bring this fine down to \$250. Thank you for your consideration—and in any case I am ready to arrange that the fine, in whichever amount, be paid from the campaign ASAP.

Best,
Andrew De Young

From: [Felipe Illescas](#)
To: [Engelhardt, Megan \(CFB\)](#)
Subject: Fee waiver request for 70053
Date: Monday, October 03, 2022 3:48:59 PM

This message may be from an external email source.

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Good after Megan,

I am writing today on behalf of the MN Green Industry PAC, registration # 70053. The reason for my email is to request a fee waiver for daily late fees incurred during the last 4 business days starting after the September Expenditure Report filing deadline. We have gone through recent staff and officials transitions which led us to take a bit longer to file our September 2022 Expenditure Report since we needed to confirm accounting information.

We have completed and submitted the report now and we hope that you consider our request to waive the late fees based on our internal transitions.

I am more than happy to provide more information as necessary regarding this request.

Thank you very much for your consideration.

Felipe

Felipe Illescas
Government Affairs Director
Minnesota Nursery & Landscape Association
Email - felipe@mnl.biz
Phone - 612-418-5382



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From: [Momah, Samuel](#)
To: [Olson, Andrew \(CFB\)](#)
Cc: [Samuel Momah](#); gazalism@hotmail.com; radedayo2001@gmail.com
Subject: RE: MN Campaign Finance Report
Date: Friday, October 21, 2022 10:45:23 AM

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Megan,

Sorry again I must have missed a filing date per your letter. I thought we have met all our filing obligation until the next quarterly filing date of October 31st, 2022, which I have submitted accordingly. We are a new organization trying to get new membership. We are not ready yet to participate in this election circle or to support any candidate currently. Neither are we obtaining any loans or soliciting any funds to that effect. Now that I have obtained a calendar from Megan, I'd try my best to follow it accordingly. So please accept our request for a waiver and let me know if you have any questions.

Thanks.

Samuel Momah, Ph.D.

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MINNESOTA CAMPAIGN FINANCE BOARD

Date: November 7, 2022

To: Board members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Prima facie determinations finding no violation

Complaints filed with the Board are subject to a prima facie determination which is made by the Board chair or the Board chair's designee in consultation with staff. If the determination finds that the complaint states a violation of Chapter 10A or the provisions of Chapter 211B under the Board's jurisdiction, the complaint moves forward to a probable cause determination by the full Board.

If the determination finds that the complaint does not state a prima facie violation, the prima facie determination must dismiss the complaint without prejudice. When a complaint is dismissed, the complaint and the prima facie determination become public data. The following four complaints were dismissed by Chair Rashid or Vice Chair Soule and the prima facie determinations are provided here as an informational item to the other Board members. No further action of the Board is required.

Complaint regarding Jim Schultz For Minnesota Attorney General and multiple other entities

On October 11, 2022, the Board received a complaint submitted by Jon Erik Kingstad regarding James Schultz, a candidate for attorney general, and his principal campaign committee, Jim Schultz For Minnesota Attorney General, the Pine Bend PAC, a political committee, Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC, Ron Eibensteiner, the Center of the American Experiment, and the Upper Midwest Law Center.¹ On October 13, 2022, the Board received a supplement to the complaint.² The complaint alleged that the Schultz committee received contributions made by or on behalf of multiple entities, consisting either of money, or of free services provided by Mr. Eibensteiner, which the complaint alleged were coordinated expenditures. The complaint also alleged lobbying reporting violations by the Center of the American Experiment, commingling by the Pine Bend PAC, and other violations.

¹ cfb.mn.gov/pdf/bdactions/1597_Complaint.pdf

² cfb.mn.gov/pdf/bdactions/1597_Supplemental_Complaint.pdf

On October 24, 2022, Chair Rashid concluded that the complaint did not state a prima facie violation of any statute under the Board's jurisdiction. That determination was based in part on the conclusion that most of the allegations were premised upon speculation unsupported by evidence. With respect to some allegations, the determination found that the complaint did not state a violation based on the failure to allege facts that, if true, would constitute a violation. Therefore, the complaint was dismissed. The prima facie determination is attached to this memo.

Complaint regarding Dr. Scott Jensen for Governor and Heal Minnesota

On October 24, 2022, the Board received a complaint submitted by the Minnesota DFL regarding Dr. Scott Jensen for Governor, and Heal Minnesota, an independent expenditure political committee.³ The complaint alleged that Dr. Jensen, his running-mate Matt Birk, and an agent of their committee, retweeted one or more tweets of Heal Minnesota. The complaint alleged that the retweets destroyed the independence of the expenditures made by Heal Minnesota, causing both the expenditures associated with the tweets in question and subsequent expenditures by that committee to be coordinated expenditures and thereby contributions to the Jensen committee.

On November 4, 2022, Vice Chair Soule concluded that the complaint did not state a prima facie violation of any statute under the Board's jurisdiction. That determination was based on three conclusions. First, the determination concluded that without more, retweeting a tweet that contains an independent expenditure, which is in the public domain, at no cost, does not constitute making an expenditure with the candidate's participation under Minnesota Statutes section 10A.176, subdivision 7. Second, the determination concluded that without more, retweeting a tweet that contains a link to a donation page does not constitute fundraising within the meaning of Minnesota Statutes section 10A.176, subdivision 2. Third, the determination concluded that the expenditures in question were not otherwise approved expenditures. Therefore, the complaint was dismissed. The prima facie determination is attached to this memo.

Complaint regarding the Kim Crockett for Secretary of State Committee and APP PAC

On October 24, 2022, the Board received a complaint submitted by the Minnesota DFL regarding the Kim Crockett for Secretary of State Committee, and the American Principles Project PAC-Minnesota Fund (APP PAC), an independent expenditure political fund.⁴ The complaint alleged that Ms. Crockett retweeted a tweet of the APP PAC. The complaint alleged that the retweet destroyed the independence of the expenditure made by the APP PAC, causing both the expenditure associated with the tweet in question and subsequent expenditures by that fund to be coordinated expenditures and thereby contributions to the Crockett committee.

On November 4, 2022, Vice Chair Soule concluded that the complaint did not state a prima facie violation of any statute under the Board's jurisdiction. That determination was based on

³ cfb.mn.gov/pdf/bdactions/1600_Complaint.pdf

⁴ cfb.mn.gov/pdf/bdactions/1601_Complaint.pdf

two conclusions. First, the determination concluded that without more, retweeting a tweet that contains an independent expenditure, which is in the public domain, at no cost, does not constitute making an expenditure with the candidate's participation under Minnesota Statutes section 10A.176, subdivision 7. Second, the determination concluded that the expenditure in question was not otherwise an approved expenditure. Therefore, the complaint was dismissed. The prima facie determination is attached to this memo.

Complaint regarding Bernie (Perryman) For House

On September 14, 2022, the Board received a complaint submitted by Chantal Oechsle regarding Bernie (Perryman) For House.⁵ The complaint alleged that the Perryman committee ran radio advertisements without providing a transcript of the advertisements in violation of Minnesota Statutes section 10A.38.

On September 29, 2022, Chair Rashid concluded that the complaint did not state a prima facie violation of any statute under the Board's jurisdiction. The determination concluded that the Perryman committee was not required to provide a transcript for any radio advertisements because the candidate did not sign a public subsidy agreement, and therefore was not subject to Minnesota Statutes section 10A.38. Therefore, the complaint was dismissed. The prima facie determination is attached to this memo.

Attachments:

Schultz, *et al.* prima facie determination
Jensen and Heal Minnesota prima facie determination
Crockett and APP PAC prima facie determination
Perryman prima facie determination

⁵ cfb.mn.gov/pdf/bdactions/1599_Complaint.pdf

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF JON ERIK KINGSTAD REGARDING JIM SCHULTZ FOR MINNESOTA ATTORNEY GENERAL, KOCH INDUSTRIES, INC., FLINT HILLS RESOURCES PINE BEND, LLC, KOCH COMPANIES PUBLIC SECTOR, LLC, PINE BEND PAC, RON EIBENSTEINER, CENTER OF THE AMERICAN EXPERIMENT, AND UPPER MIDWEST LAW CENTER

On October 11, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Jon Erik Kingstad regarding James Schultz, a candidate for attorney general, and his principal campaign committee, Jim Schultz For Minnesota Attorney General, the Pine Bend PAC, a political committee assigned Board registration number 40821, Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC, Ron Eibensteiner, the Center of the American Experiment, and the Upper Midwest Law Center. On October 13, 2022, the Board received a supplement to the complaint submitted by Mr. Kingstad. For purposes of this prima facie determination the supplement will be considered part of the original complaint.

Pine Bend PAC and Koch Industries, Inc. and its Subsidiaries and Affiliates

The complaint alleges, and campaign finance reports filed with the Board by the Schultz committee and the Pine Bend PAC reflect, that the Pine Bend PAC made a \$2,500 monetary contribution to the Schultz committee in September of 2022. The complaint asserts, and Board records reflect, that the Pine Bend PAC is a political committee and is not an independent expenditure political committee. The complaint alleges that the contribution made by the Pine Bend PAC was a corporate contribution prohibited by Minnesota Statutes section 211B.15. The complaint does not allege that the Pine Bend PAC is a corporation. Rather, the complaint asserts that:

Pine Bend PAC has been accepting and making contributions for over 20 years on behalf of Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, and other subsidiaries and affiliates of Koch Industries, Inc. and the owners and principal officers and directors of Koch Industries, Inc., including Charles G. Koch and the late David Koch.

The complaint alleges, and campaign finance reports filed with the Board by the Pine Bend PAC reflect, that David Koch made a \$20,000 contribution to the Pine Bend PAC in 2010 and Charles Koch made a \$25,000 contribution to the committee in 2011. The complaint asserts that those contributions were made using “the corporate or personal funds of the late David Koch and Charles G. Koch” and that the “Pine Bend PAC and its agents have commingled [those funds] with other contributions from members, employees, agents and officers of Koch Industries, Inc. and its subsidiaries and affiliates.” On that basis the complaint alleges that the Pine Bend PAC violated Minnesota Statutes section 10A.12, subdivision 2, which generally prohibits the commingling of the contents of an association’s political fund with other funds.

The complaint states that the Pine Bend PAC's treasurer, Matthew Lemke, is employed by Koch Companies Public Sector, LLC and Flint Hills Resources Pine Bend, LLC, which the complaint alleges are subsidiaries of Koch Industries, Inc. The complaint asserts that Charles Koch, as an officer of Koch Industries, Inc., manager of Koch Companies Public Sector, LLC, and principal owner of Flint Hills Resources Pine Bend, LLC, "knows who is contributing and how much and has the authority and right . . . to direct the expenditure of funds contributed to Pine Bend PAC."

The complaint alleges that Koch Industries, Inc. and Flint Hills Resources Pine Bend, LLC are defendants in a legal action, *State of Minnesota v. American Petroleum Institute, et al.*¹ The complaint references statements by Mr. Schultz quoted within an August 2022 Star Tribune article describing that action as "frivolous" and "fundamentally about business harassment." The complaint asserts that these and similar statements by Mr. Schultz:

were made by Schultz as a signal to communicate . . . that he and the Jim Schultz for Minnesota Attorney General Campaign would accept contributions directly or indirectly from any of the Defendants, including Koch Industries, Inc. and Flint Hills Resources Pine Bend, LLC, as *quid pro quo* for his commitment that, if elected as Minnesota Attorney General, he would fire the attorneys assigned to the case and corruptly delay, abate or discontinue, if not effect a voluntary dismissal of, the prosecution of *State of Minnesota v. American Petroleum Institute, et al.*,

Also, within a footnote the complaint raises the possibility that Mr. Schultz violated Minnesota Statutes section 609.42, which prohibits acts of bribery, when his campaign committee accepted a contribution from the Pine Bend PAC.

Ron Eibensteiner, the Center of the American Experiment, and the Upper Midwest Law Center

The complaint alleges, and Board records reflect, that Ron Eibensteiner was the chair of the Schultz committee when the committee registered with the Board in December of 2021. Board records reflect that Mr. Eibensteiner was replaced as chair on June 13, 2022. The complaint asserts that when Mr. Eibensteiner was appointed as chair of the committee, Mr. Schultz knew that he was the chair of the board of directors of the Center of the American Experiment (CAE) and was a member of the board of directors of the Upper Midwest Law Center (UMLC). The complaint alleges that the CAE and the UMLC are each nonprofit corporations that do not qualify for the nonprofit corporation exemption under Minnesota Statutes section 211B.15, subdivision 15.

The complaint alleges that the CAE and the UMLC conducted "lobbying campaigns against legislative action and administrative action in Minnesota to address climate change which are consistent and in concert with having received funding from business corporations who have been charged with conducting the false advertising campaign in" *State of Minnesota v. American Petroleum Institute, et al.* The complaint alleges that the CAE, which is a lobbyist principal, "has never reported the direct payments to its lobbyists in this state as required by" Minnesota Statutes section 10A.04, subdivision 6, paragraph (c), clause (1). The complaint further alleges that the CAE has failed to provide

¹ The Ramsey County District Court case number is 62-CV-20-3837.

information to its lobbyists pursuant to Minnesota Statutes section 10A.04, subdivision 3, regarding “each original source of money in excess of \$500 in any year used for the purpose of lobbying,” which lobbyists must include within reports required by that statute. The complaint alleges that this failure has allowed the CAE to conceal whether it receives significant contributions from business corporations.

The complaint alleges that Mr. Eibensteiner “agreed to provide free political consulting services and related information services not publicly available regarding campaign planning, strategy, needs planning, and messaging free of charge on behalf of and for the benefit of” the CAE and the UMLC, to the Schultz committee. The complaint asserts that in return for those services, Mr. Schultz “would make the action of *State of Minnesota v. American Petroleum Institute, et al*, an issue of his campaign and make it known publicly his intention that if elected Minnesota Attorney General, he would” discontinue or delay “the prosecution of the action and fire the attorneys working on the action. . . .” The complaint alleges that in exchange for those services, Mr. Schultz would also criticize climate change as a hoax or otherwise repeat the CAE’s messaging regarding climate change, the oil and fossil fuel industries, etc., and would coordinate with the CAE’s messaging “blaming elected Democratic Party officials, including Ellison, for being anti-police, responsible for rising crime and for the violence and damage which occurred after the murder of George Floyd by a policeman in May, 2020.” The complaint alleges that dismissal of *State of Minnesota v. American Petroleum Institute, et al*. would benefit Mr. Schultz, the CAE, and the UMLC, by avoiding “the possibility of having any significant funding or other contributions from business corporations being revealed and made public.”

The complaint refers to and includes copies of three magazine articles and three blog posts published by the CAE regarding special assistant attorneys general who were involved with *State of Minnesota v. American Petroleum Institute, et al.*, and describing a lawsuit brought by the UMLC on behalf of Energy Policy Advocates seeking data regarding those attorneys. The complaint asserts that those publications are evidence that “Schultz’s campaign is in cooperation and in concert with” the “public relations campaign” of the CAE and the UMLC. Mr. Eibensteiner authored one of the magazine articles, which was published in the Fall 2019 edition of the CAE’s magazine, *Thinking Minnesota*. The complaint does not allege that any of the publications contained express advocacy in support of Mr. Schultz or in opposition to any other candidate for attorney general.

The complaint states, and a campaign finance report filed with the Board by the Schultz committee reflects, that Mr. Eibensteiner made a \$2,500 monetary contribution to the Schultz committee in December of 2021. The complaint alleges that the contribution was made on behalf of the CAE and the UMLC and was “was disguised as a personal ‘independent expenditure’ which was accepted by” the Schultz committee:

as *quid pro quo* for Eibensteiner’s free campaign advice and other services in exchange for the agreement from James Schultz that, if elected as Minnesota Attorney General, he would fire all of the attorneys assigned to *State of Minnesota v. American Petroleum Institute, et al* and discontinue, delay, abate, or dismiss that action.

The complaint asserts that “[t]here is reason to believe that other contributions received and accepted by” the Schultz committee “from members or former members of the CAE Board of

Directors have not been ‘independent expenditures’ but in reality, *quid pro quo* contributions coordinated by” Mr. Eibensteiner as an agent for the CAE and the UMLC, “for the reciprocal benefit and advantage of” those entities. Specifically, the complaint refers to two contributions totaling \$2,500 made to the Schultz committee in 2022 by Douglas Seaton, the president of the UMLC. The complaint asserts that “[t]hese were coordinated contributions by individuals which” the CAE and the UMLC, “as corporations, were prohibited from making . . . and were not ‘independent expenditures’” as defined by Minnesota Statutes section 10A.01, subdivision 18.

Circumvention and Other Allegations

The complaint asks the Board to investigate whether the foregoing alleged facts constituted circumvention of the contribution limits and reporting requirements of Chapter 10A, in violation of Minnesota Statutes section 10A.29. The complaint alleges a violation of Minnesota Statutes section 10A.121, without identifying any independent expenditure or ballot question political committee or fund that allegedly violated that statute and without clearly explaining what conduct occurred that constituted a violation. Lastly, the complaint alleges that one or more entities named in the complaint violated Minnesota Statutes sections 10A.175 through 10A.177, which establish the circumstances under which an expenditure that contains express advocacy is a coordinated expenditure and is not an independent expenditure.

The complaint includes copies of the complaint filed in *State of Minnesota v. American Petroleum Institute, et al.*, labeled Exhibit A; an August 2022 Star Tribune article containing statements by Mr. Schultz regarding that legal action, labeled Exhibit B; an August 2022 blog post published by the Independent Petroleum Association of America regarding that legal action and the Star Tribune’s new coverage, labeled Exhibit C; a portion of a fall 2019 magazine article authored by Mr. Eibensteiner and published by the CAE regarding climate change and the Green New Deal, labeled Exhibit D; a fall 2019 magazine article published by the CAE regarding a lawsuit brought by the UMLC on behalf of Energy Policy Advocates seeking data regarding special assistant attorneys general, labeled Exhibit E; an August 2019 blog post published by the CAE regarding those attorneys, labeled Exhibit F; a June 2021 blog post published by the CAE regarding those attorneys and a lawsuit brought by the UMLC on behalf of Energy Policy Advocates seeking data regarding those attorneys, labeled Exhibit G; a July 2021 blog post published by the CAE regarding the same topic, labeled Exhibit H; and a Spring 2022 magazine article published by the CAE regarding the same topic, labeled Exhibit I.

Determination

Corporate Contributions

Minnesota Statutes section 211B.15, subdivision 1, defines the term corporation to mean “(1) a corporation organized for profit that does business in this state; (2) a nonprofit corporation that carries out activities in this state; or (3) a limited liability company formed under chapter 322C, or under similar laws of another state, that does business in this state.” Minnesota Statutes section 211B.15, subdivision 2, provides that:

(a) A corporation may not make a contribution or offer or agree to make a contribution directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office.

(b) A political party, organization, committee, or individual may not accept a contribution or an offer or agreement to make a contribution that a corporation is prohibited from making under paragraph (a).

(c) For the purpose of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate but does not include an independent expenditure authorized by subdivision 3.

Minnesota Statutes section 211B.15, subdivision 13 prohibits any individual from aiding, abetting, or advising a violation of that section. Minnesota Statutes section 211B.15, subdivision 15, provides that the prohibition on corporate contributions does:

not apply to a nonprofit corporation that:

- (1) is not organized or operating for the principal purpose of conducting a business;
- (2) has no shareholders or other persons affiliated so as to have a claim on its assets or earnings; and
- (3) was not established by a business corporation or a labor union and has a policy not to accept significant contributions from those entities.

The complaint does not allege that the Pine Bend PAC is a corporation. A contribution made or offered by an entity that is not a corporation is generally not prohibited by Minnesota Statutes section 211B.15, subdivision 2, unless the contribution is made or offered on behalf of a corporation. The complaint alleges that Charles Koch has the authority to direct expenditures made by the Pine Bend PAC. The complaint notes that Charles Koch is an owner and director of Koch Industries, Inc., but does not explain why that status affords him the authority to direct the expenditures of the Pine Bend PAC. Moreover, the complaint does not allege, or include direct evidence indicating, that Charles Koch or any corporation actually directed the Pine Bend PAC to make a contribution to the Schultz committee. The complaint asserts that the "Pine Bend PAC has been accepting and making contributions for over 20 years on behalf of Koch Industries, Inc. . . . and other subsidiaries and affiliates," but does not include direct evidence that any corporation controls the activities of the Pine Bend PAC. The assertion that the treasurer of the Pine Bend PAC is employed by, and a lobbyist for, Koch Companies Public Sector, LLC, does not demonstrate that the treasurer acts on behalf of any corporation. Similarly, the asserted fact that a substantial portion of the contributions received by the Pine Bend PAC were made by employees or owners of Koch Industries, Inc. and its subsidiaries and affiliates, does not demonstrate that any corporation directed the individuals to make

donations on behalf of the corporation, or that the contributions represent circumvention of the provisions of Chapter 10A.

To the extent that the complaint alleges that any corporation directed Pine Bend PAC to make a contribution to the Schultz committee, the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15 by the Pine Bend PAC, Koch Industries, Inc., Flint Hills Resources Pine Bend, LLC, Koch Companies Public Sector, LLC, the Schultz committee, or Mr. Schultz, because that allegation is based on speculation unsupported by evidence. To the extent that the complaint alleges that any individual aided, abetted, or advised a violation of Minnesota Statutes section 211B.15 with respect to the contribution made by the Pine Bend PAC to the Schultz committee, the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15, subdivision 13, because that allegation is based on speculation unsupported by evidence. To the extent that the complaint alleges that David Koch or Charles Koch made a contribution to the Pine Bend PAC using corporate funds, the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15 by the Pine Bend PAC or by any individual, because that allegation is based on speculation unsupported by evidence.

The complaint does not allege that Mr. Eibensteiner, Mr. Seaton, or any other individual, is a corporation. A contribution made or offered by an entity that is not a corporation is generally not prohibited by Minnesota Statutes section 211B.15, subdivision 2, unless the contribution is made or offered on behalf of a corporation. The complaint asserts that monetary contributions made to the Schultz committee by Mr. Eibensteiner, Mr. Seaton, and other “members or former members of the CAE Board of Directors” were made on behalf of the CAE and the UMLC. However, the complaint does not allege, or include evidence indicating, that funds used to make those contributions were provided by the CAE or the UMLC or that either of those organizations directed any individual to make a contribution to the Schultz committee. Therefore, the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15 with respect to monetary contributions made to the Schultz committee by individuals.

The complaint also alleges that services provided by Mr. Eibensteiner were contributions made to the Schultz committee on behalf of the CAE and the UMLC. Minnesota Statutes section 10A.01, subdivision 11, paragraph (c), provides that the term contribution “does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate. . . .” The complaint alleges and includes evidence that Mr. Eibensteiner has served as the chairman of the CAE’s board of directors and as a member of the UMLC’s board of directors, but the complaint does not allege that Mr. Eibensteiner was compensated by those organizations for services that he allegedly provided to the Schultz committee.

The complaint asserts that Mr. Eibensteiner provided services to the Schultz committee on behalf of and for the benefit of the CAE and the UMLC. However, the evidence included in the complaint that appears to be offered in support of that assertion is limited to articles and blog posts indicating that Mr. Eibensteiner has served on the board of directors of each organization and that those organizations have espoused viewpoints on matters of public policy and law that in some cases align with viewpoints espoused by Mr. Schultz and the Schultz committee. The lone article included in the

complaint that was authored by Mr. Eibensteiner was published in 2019, approximately two years before the Schultz committee registered with the Board. The assertions that Mr. Eibensteiner was the chair of the Schultz committee and has also served on the boards of directors of the CAE and the UMLC are not, in themselves, a sufficient basis to investigate whether those organizations compensated Mr. Eibensteiner for services provided to the Schultz committee or in any way directed the provision of those services.

For the forgoing reasons the complaint does not state a prima facie violation of Minnesota Statutes section 211B.15 by Mr. Eibensteiner, the CAE, the UMLC, the Schultz committee, or Mr. Schultz, with respect to services allegedly provided by Mr. Eibensteiner, because that allegation is based on speculation unsupported by evidence.

Circumvention

The complaint asks the Board to investigate whether the foregoing allegations constituted circumvention in violation of Minnesota Statutes section 10A.29, which provides that an individual or association is prohibited from attempting “to circumvent this chapter by redirecting a contribution through, or making a contribution on behalf of, another individual or association. . . .” The complaint does not appear to affirmatively allege circumvention or explain what provision within Minnesota Statutes Chapter 10A may have been circumvented. Moreover, to the extent that the complaint alleges that any particular alleged contribution was redirected or made on behalf of another individual or association, those allegations are not accompanied by direct evidence indicating that the true source of the contribution was a corporation or other type of entity other than the individual or association that was recorded as having made the contribution in question. Therefore, the complaint does not state a prima facie violation of Minnesota Statutes section 10A.29.

Commingling

The complaint alleges that contributions made to the Pine Bend PAC by David Koch and Charles Koch in 2010 and 2011 have been “commingled with other contributions from members, employees, agents, and officers of Koch Industries, Inc. and its subsidiaries and affiliates,” in violation of Minnesota Statutes section 10A.12, subdivision 2. The statute cited in the complaint applies to political funds and does not apply to political committees such as the Pine Bend PAC. However, a very similar provision applies to political committees, Minnesota Statutes section 10A.11, subdivision 5. That statute provides that a political committee “may not commingle its funds with personal funds of officers, members, or associates of the committee.” The complaint does not explain how money given by individuals to the Pine Bend PAC over a decade ago remained the personal funds of those individuals after the money was used to make political contributions to the Pine Bend PAC, such that it would constitute commingling to deposit that money in the same account used for other contributions received by the committee. A political committee does not violate Minnesota Statutes section 10A.11, subdivision 5, if contributions made by some individuals are combined with contributions made by other individuals into the same account. The purpose of the statute is to prevent a committee’s funds from being combined with the personal funds of its officers, members, and associates. The purpose of the statute is not to prevent contributions from multiple sources from

being combined within a single account. For the forgoing reasons the complaint does not state a prima facie violation of Minnesota Statutes sections 10A.11, subdivision 5, or 10A.12, subdivision 2.

Contribution by an Independent Expenditure Political Committee or Fund

The complaint alleges a violation of Minnesota Statutes section 10A.121, which prohibits independent expenditure political committees and funds from making a contribution to “a candidate, local candidate, party unit, political committee, or political fund other than an independent expenditure political committee or an independent expenditure political fund.” The only political committee or fund that is identified in the complaint is the Pine Bend PAC, which the complainant acknowledges is not an independent expenditure political committee or fund, but rather is a general purpose political committee. Also, the complaint does not explain the substance of the alleged violation. Therefore, the complaint does not state a prima facie violation of Minnesota Statutes section 10A.121.

Coordinated Expenditures

The complaint alleges a violation of Minnesota Statutes sections 10A.175 through 10A.177. Those provisions generally describe relationships, communication, and other connections between a candidate and a political committee, political fund, or political party unit, that would cause an expenditure made by one of those entities to be a coordinated expenditure made on behalf of the candidate. Coordination with a candidate is not prohibited by those statutes. Rather, those provisions are used to distinguish between a coordinated expenditure, which is defined as a contribution to the candidate on whose behalf the expenditure is made, and an independent expenditure. There is no means by which an individual or association may violate those provisions because the statutes do not prohibit any particular activity. The complaint therefore does not state a prima facie violation of Minnesota Statutes sections 10A.175 through 10A.177.

Lobbyist Reports

Minnesota Statutes section 10A.04, subdivision 6, requires each lobbyist principal, including the CAE, to file an annual report disclosing the total amounts spent on two categories of lobbying, rounded to the nearest \$20,000. Paragraph (c), clause (1) of that provision provides that those totals must include “all direct payments by the principal to lobbyists in this state.” The complaint alleges that the CAE “has never reported the direct payments to its lobbyists in this state. . . .” Board records reflect that the CAE has filed a report disclosing at least \$20,000 in lobbying disbursements for each of the past six years. To the extent that the complaint alleges that the principal reports filed by the CAE are not inclusive of compensation paid by the CAE to its own lobbyists, the complaint does not state a prima facie violation of Minnesota Statutes section 10A.04, subdivision 6, because that allegation is based on speculation unsupported by evidence.

The complaint alleges that the CAE has failed to provide its lobbyists with information needed to report original sources of funds paid to CAE by other individuals or associations specifically for lobbying in Minnesota. Minnesota Statutes section 10A.04, subdivision 3, provides that “[a]n employer or employee about whose activities a lobbyist is required to report must provide the

information required by subdivision 4 to the lobbyist no later than five days before the prescribed filing date.” Minnesota Statutes section 10A.04, subdivision 4, paragraph (d), provides that “[a] lobbyist must report each original source of money in excess of \$500 in any year used for the purpose of lobbying. . . .” Minnesota Rules 4511.0100, subpart 5, defines the term original source of funds to mean “a source of funds, other than the entity for which a lobbyist is registered, paid to the lobbyist, the lobbyist's employer, the entity represented by the lobbyist, or the lobbyist's principal, for lobbying purposes.”

The complaint alleges that the CAE failed to provide information to its lobbyists regarding each original source of money. The complaint does not identify any original source of money that paid more than \$500 within any year to the CAE or any of its lobbyists for the purpose of lobbying and was excluded from lobbyist reports filed for that year by the CAE’s lobbyists. The complaint does not include evidence that any such original source of money exists or that any failure to report that source was caused by the CAE’s failure to provide information to its lobbyists. Therefore, the complaint does not state a prima facie violation of Minnesota Statutes section 10A.04, subdivision 3, by the CAE, because that allegation is based on speculation unsupported by evidence.

Bribery

The Board does not have investigative authority with respect to Minnesota Statutes section 609.42.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (c), this prima facie determination is made by a single Board member and not by any vote of the entire Board. Based on the above analysis, the Chair concludes that the complaint does not state a prima facie violation of Chapter 10A or of those sections of Chapter 211B under the Board’s jurisdiction. The complaint is dismissed without prejudice.



Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: October 24, 2022

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF THE MINNESOTA DFL REGARDING THE DR. SCOTT JENSEN FOR GOVERNOR COMMITTEE AND HEAL MINNESOTA

On October 24, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by the Minnesota DFL regarding the Dr. Scott Jensen for Governor committee and Heal Minnesota. Dr. Scott Jensen for Governor is the principal campaign committee of Dr. Scott Jensen. Heal Minnesota is an independent expenditure political committee, assigned Board registration number 41322.

The complaint alleges and provides evidence that Heal Minnesota issued several tweets advocating for the defeat of Governor Tim Walz. One of those tweets, dated October 18, 2022, contained a 30-second video with audio stating “End Tim Walz’s chaos. Vote Scott Jensen for governor.”¹ The video included text stating “VOTE SCOTT JENSEN FOR GOVERNOR” and a text disclaimer stating that it was paid for by “HEAL MINNESOTA PAC.” The tweet included a link to a webpage where individuals could make a contribution to Heal Minnesota.² The complaint alleges and provides evidence that Dr. Jensen quote-tweeted Heal Minnesota’s tweet containing the video, adding the word “Wow!”, on October 18, 2022.³ The complaint alleges and provides evidence that Matt Birk, Dr. Jensen’s running-mate and candidate for lieutenant governor, retweeted the same tweet, as did Angela Cooperman. The complaint asserts that Ms. Cooperman is the campaign manager for the Jensen campaign. The complaint alleges and provides evidence that the act of retweeting the October 18 tweet “substantially increased the reach of the campaign material” because Heal Minnesota had only 166 followers on Twitter while Dr. Jensen and Mr. Birk had approximately 91,900 and 39,600 followers, respectively.

The complaint also alleges and provides evidence that Heal Minnesota issued a tweet on October 17, 2022, stating in relevant part that “[e]veryone is feeling the heavy weight of Tim Walz’s failed leadership. Vote Him OUT!”⁴ The complaint alleges and provides evidence that Ms. Cooperman retweeted that tweet.

The complaint alleges that the actions of Dr. Jensen, Mr. Birk, and Ms. Cooperman “undermine the independence of the expenditures” and made them coordinated expenditures because the candidates participated in the distribution of the final product. The complaint asserts that as a result of retweeting one or more tweets, the candidates and their agent

¹ twitter.com/HealMNPAC/status/1582385966844907520

² secure.anedot.com/heal-minnesota-pac/website-links

³ twitter.com/drscottjensen/status/1582467231497089032

⁴ twitter.com/HealMNPAC/status/1582038574542700544

have expressly consented to not only that specific expenditure but also to the subsequent publication of similar campaign materials affecting the race. The candidates and the campaign are saying to Heal Minnesota, “we like what you are doing, keep it up.” This endorsement of the campaign material means that all subsequent campaign material distributed by Heal Minnesota supporting the election of Scott Jensen and Matt Birk or advocating for the defeat of Governor Tim Walz are “coordinated expenditures” and must be reported as contributions subject to the \$4,000 contribution limit.

The complaint further asserts that because the October 18 tweet included a link to Heal Minnesota’s contribution webpage, Dr. Jensen and Mr. Birk “engaged in fundraising of . . . money for Heal Minnesota . . . which renders all expenditures supporting their election or the defeat of Governor Walz made during this election ‘coordinated expenditures.’”

Determination

An expenditure generally consists of “a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate” and an “expenditure made for the purpose of defeating a candidate . . . is considered made for the purpose of influencing the nomination or election of that candidate . . . or any opponent of that candidate.” Minn. Stat. § 10A.01, subd. 9.

Minnesota Statutes section 10A.01, subdivision 18, defines the term independent expenditure, in relevant part, as follows:

"Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate or local candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent or any local candidate or local candidate's agent. An independent expenditure is not a contribution to that candidate or local candidate.

“To be an independent expenditure, a communication and all of the processes leading to its eventual publication must meet the requirements of the independent expenditure definition cited above.” In the Matter of the Investigation of Expenditures Made by the Minnesota DFL Senate Caucus Party Unit (Dec. 17, 2013), at 6⁵ The independence of an expenditure is not destroyed by using campaign material in the public domain when there is no evidence that a candidate or their agent provided consent to, or cooperated with, an entity in making that entity’s expenditure. In the Matter of the Complaint of the Republican Party of Minnesota Regarding the Minnesota DFL Party and the Mark Dayton for a Better Minnesota Committee (Jan. 6, 2015), at 3.⁶

⁵ Available at cfb.mn.gov/pdf/bdactions/1296_Findings.pdf.

⁶ Available at cfb.mn.gov/pdf/bdactions/1331_Probable_cause_determination.pdf.

Minnesota Statutes section 10A.01, subdivision 4, defines the term approved expenditure as follows:

"Approved expenditure" means an expenditure made on behalf of a candidate or a local candidate by an entity other than the candidate's principal campaign committee or the local candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate or local candidate, the candidate's principal campaign committee, or the candidate's or local candidate's agent. An approved expenditure is a contribution to that candidate or local candidate.

Minnesota Statutes section 10A.175 defines several terms for purposes of that section through section 10A.177. The term candidate "means a candidate as defined in section 10A.01, subdivision 10, the candidate's principal campaign committee, or the candidate's agent." The term agent "means a person serving during an election segment as a candidate's chairperson, deputy chairperson, treasurer, deputy treasurer, or any other person whose actions are coordinated." The term coordinated "means with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate. A coordinated expenditure is an approved expenditure under section 10A.01, subdivision 4." Finally, the term spender means "an individual, an association, a political committee, a political fund, an independent expenditure political committee, an independent expenditure political fund, or a party unit."

Minnesota Statutes section 10A.176, subdivision 7, provides that:

An expenditure is a coordinated expenditure if the expenditure is made with the candidate's participation in the following:

- (1) any of the processes required for the creation and development of the expenditure, including budgeting decisions, media design, acquisition of graphics and text, production, and distribution of the final product; or
- (2) any decision regarding the content, timing, location, intended audience, volume of distribution, or frequency of the expenditure.

Minnesota Statutes section 10A.176, subdivision 2, provides as follows with respect to fundraising:

- (a) An expenditure is a coordinated expenditure if the expenditure is made on or after January 1 of the year the office will appear on the ballot by a spender for which the candidate, on or after January 1 of the year the office will appear on the ballot, has engaged in fundraising of money that is not general treasury money, as defined in section 10A.01, subdivision 17c, of the spender.
- (b) For purposes of this subdivision, candidate fundraising includes:

- (1) soliciting or collecting money for or to the spender that is not general treasury money; and
- (2) appearing for the spender as a speaker at an event raising money that is not general treasury money.
- (c) This subdivision does not apply to a candidate's fundraising on behalf of a party unit.

A coordinated expenditure is an approved expenditure, therefore it is a contribution to the candidate on whose behalf it was made and is subject to the individual contribution limit. The individual contribution limit applicable to candidates for governor and lieutenant governor running together during the 2021-2022 election cycle segment is \$4,000. Minn. Stat. § 10A.27, subd. 1 (a) (1).

Minnesota Statutes section 10A.121, subdivision 1, provides that independent expenditure political committees may make independent expenditures, while subdivision 2 provides penalties for certain actions by an independent expenditure political committee. The statute provides that

a) An independent expenditure political committee or independent expenditure political fund is subject to a civil penalty of up to four times the amount of the contribution or approved expenditure if it does the following:

- (1) makes a contribution to a candidate, local candidate, party unit, political committee, or political fund other than an independent expenditure political committee or an independent expenditure political fund; or
- (2) makes an approved expenditure.

(b) No other penalty provided in law may be imposed for conduct that is subject to a civil penalty under this section.

The term approved expenditure is defined in a manner designed to prevent a candidate from communicating with an association about an independent expenditure in support of that candidate or against that candidate's opponent that the association may intend to make. Minnesota Statutes sections 10A.175 through 10A.177 describe relationships, communication, and other connections that would cause an expenditure to be a coordinated expenditure and not an independent expenditure. Those provisions do not prohibit all relationships between candidates and entities that may make independent expenditures. For example, Minnesota Statutes section 10A.177 provides that a candidate may, without destroying the independence of any subsequent expenditure, provide "to a spender names of potential donors, as long as the spender does not state or suggest to the candidate that funds received from use of the donor list will be used for independent expenditures to benefit the candidate." Minnesota Statutes section 10A.177 provides that a spender may make a contribution to a candidate that it is not otherwise prohibited from making, without destroying the independence of any future expenditure related to that candidate, and an independent expenditure may include a link to a

candidate's website or social media page. Minnesota Statutes section 10A.177 also provides that a spender may use "a photograph, video, or audio recording obtained from a publicly available source or public event" without destroying the independence of an expenditure.

The complaint does not allege that Dr. Jensen, Mr. Birk, or Ms. Cooperman directly asked anyone to make a contribution to Heal Minnesota. Rather, the complaint alleges and provides evidence that they retweeted a tweet containing a video, text, and a link to Heal Minnesota's contribution webpage. Without more, retweeting a tweet that contains a link to a webpage where someone may make a contribution to a spender does not constitute "soliciting or collecting money" for that spender within the meaning of Minnesota Statutes section 10A.176, subdivision 2. Therefore, expenditures made by Heal Minnesota are not coordinated expenditures by virtue of the inclusion of a donation link within the October 18 tweet.

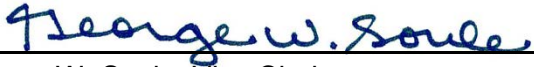
Minnesota Statutes section 10A.176, subdivision 7, classifies an expenditure as coordinated if it "is made with the candidate's participation in... (1) any of the processes required for the creation and development of the expenditure, including budgeting decisions, media design, acquisition of graphics and text, and distribution of the final product." In this case any expenditures made by Heal Minnesota likely consisted of the cost to produce the video embedded within the October 18 tweet, and a significantly lesser amount for any services related to creating and sending the two tweets as well as creating the graphics included in the October 17 tweet.

The complaint does not allege that the Jensen committee made an expenditure in order to retweet the tweets of Heal Minnesota, or otherwise disseminate the video or graphics included in those tweets. The complaint does not allege that the Jensen committee coordinated with Heal Minnesota prior to, or during, any of the processes used to create and develop the expenditures, as provided in Minnesota Statutes section 10A.176, subdivision 7. The complaint does not allege that the Jensen committee communicated with Heal Minnesota after those expenditures were made, or after the expenditures had been released to the public domain. Without more, retweeting a tweet that contains content that is an independent expenditure, that is in the public domain, at no cost, does not constitute making an expenditure with the candidate's participation within the meaning of Minnesota Statutes section 10A.176, subdivision 7. Therefore, expenditures made by Heal Minnesota are not coordinated expenditures by virtue of Dr. Jensen, Mr. Birk, and Ms. Cooperman retweeting the tweets referenced in the complaint.

Having concluded that the tweets referenced in the complaint were not coordinated expenditures based on the facts alleged in the complaint, the question that remains is whether the tweets or their content were nonetheless approved expenditures. The complaint asserts that by retweeting the tweets in question, the candidates consented to Heal Minnesota's expenditures. However, consent cannot be given after the fact, or in this case, after the independent expenditure has been released to the public. Further, retweeting the content of one expenditure by a spender does not by itself constitute consent to any expenditure that may be made in the future by that same spender. At the time the tweets referenced in the complaint were retweeted, the expenditures that the complaint alleges were made had already occurred.

The alleged violation of the individual contribution limit and any alleged violation of the prohibition on contributions by independent expenditure political committees, stated by the complaint, is premised upon the assertion that Heal Minnesota made a contribution to the Jensen committee. Because the facts alleged in the complaint do not support that assertion, the complaint does not state a prima facie violation of Minnesota Statutes sections 10A.27, subdivision 1, or 10A.121.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (c), this prima facie determination is made by a single Board member and not by any vote of the entire Board. Based on the above analysis, the Vice Chair concludes that the complaint does not state a prima facie violation of Chapter 10A or of those sections of Chapter 211B under the Board's jurisdiction. The complaint is dismissed without prejudice.



George W. Soule, Vice Chair
Campaign Finance and Public Disclosure Board

Date: November 4, 2022

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF THE MINNESOTA DFL REGARDING THE KIM CROCKETT FOR SECRETARY OF STATE COMMITTEE AND THE AMERICAN PRINCIPLES PROJECT PAC-MINNESOTA FUND

On October 24, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by the Minnesota DFL regarding the Kim Crockett for Secretary of State Committee and the American Principles Project PAC-Minnesota Fund. The Kim Crockett for Secretary of State Committee is the principal campaign committee of Kim Crockett. The American Principles Project PAC-Minnesota Fund (APP PAC) is an independent expenditure political fund, assigned Board registration number 30743. The APP PAC was registered with the Board on October 26, 2022, two days after the complaint was filed.

The complaint alleges and provides evidence that the APP PAC issued a tweet on October 21, 2022, advocating for the defeat of Secretary of State Steve Simon. The tweet contained a 30-second video with text stating “VOTE AGAINST STEVE SIMON.”¹ The video included a text disclaimer stating that it was an independent expenditure paid for by the “AMERICAN PRINCIPLES PROJECT PAC – MINNESOTA FUND.” The complaint alleges and provides evidence that Ms. Crockett retweeted that tweet, thereby increasing its audience to include her Twitter followers. The complaint alleges that the video embedded in the tweet is also being broadcast on television.

The complaint alleges that the retweet undermines the independence of the expenditure and made it a coordinated expenditure because Ms. Crockett participated in the distribution of the final product. The complaint asserts:

By retweeting the campaign material the Crockett Campaign expressly consented to not only that specific expenditure but also to the subsequent publication of similar campaign materials affecting the race. The candidates and the campaign are saying to American Principles, “we like what you are doing, keep it up.” This endorsement of the campaign material means that all subsequent campaign material distributed by American Principles supporting the election of Kim Crockett or advocating for the defeat of Secretary of State Simon are “coordinated expenditures” and must be reported as contributions subject to the \$4,000 contribution limit.²

¹ twitter.com/approject/status/1583524243936976896

² The applicable individual contribution limit is \$2,000 rather than \$4,000.

Determination

An expenditure generally consists of “a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate” and an “expenditure made for the purpose of defeating a candidate . . . is considered made for the purpose of influencing the nomination or election of that candidate . . . or any opponent of that candidate.” Minn. Stat. § 10A.01, subd. 9.

Minnesota Statutes section 10A.01, subdivision 18, defines the term independent expenditure, in relevant part, as follows:

"Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate or local candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent or any local candidate or local candidate's agent. An independent expenditure is not a contribution to that candidate or local candidate.

“To be an independent expenditure, a communication and all of the processes leading to its eventual publication must meet the requirements of the independent expenditure definition cited above.” In the Matter of the Investigation of Expenditures Made by the Minnesota DFL Senate Caucus Party Unit (Dec. 17, 2013), at 6³ The independence of an expenditure is not destroyed by using campaign material in the public domain when there is no evidence that a candidate or their agent provided consent to, or cooperated with, an entity in making that entity's expenditure. In the Matter of the Complaint of the Republican Party of Minnesota Regarding the Minnesota DFL Party and the Mark Dayton for a Better Minnesota Committee (Jan. 6, 2015), at 3.⁴

Minnesota Statutes section 10A.01, subdivision 4, defines the term approved expenditure as follows:

"Approved expenditure" means an expenditure made on behalf of a candidate or a local candidate by an entity other than the candidate's principal campaign committee or the local candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate or local candidate, the candidate's principal campaign committee, or the candidate's or local candidate's agent. An approved expenditure is a contribution to that candidate or local candidate.

Minnesota Statutes section 10A.175 defines several terms for purposes of that section through section 10A.177. The term candidate “means a candidate as defined in section 10A.01, subdivision 10, the candidate's principal campaign committee, or the candidate's agent.” The term agent “means a person serving during an election segment as a candidate's chairperson,

³ Available at cfb.mn.gov/pdf/bdactions/1296_Findings.pdf.

⁴ Available at cfb.mn.gov/pdf/bdactions/1331_Probable_cause_determination.pdf.

deputy chairperson, treasurer, deputy treasurer, or any other person whose actions are coordinated.” The term coordinated “means with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate. A coordinated expenditure is an approved expenditure under section 10A.01, subdivision 4.” Finally, the term spender means “an individual, an association, a political committee, a political fund, an independent expenditure political committee, an independent expenditure political fund, or a party unit.”

Minnesota Statutes section 10A.176, subdivision 7, provides that:

An expenditure is a coordinated expenditure if the expenditure is made with the candidate's participation in the following:

- (1) any of the processes required for the creation and development of the expenditure, including budgeting decisions, media design, acquisition of graphics and text, production, and distribution of the final product; or
- (2) any decision regarding the content, timing, location, intended audience, volume of distribution, or frequency of the expenditure.

A coordinated expenditure is an approved expenditure, therefore it is a contribution to the candidate on whose behalf it was made and is subject to the individual contribution limit. The individual contribution limit applicable to a candidate for secretary of state during the 2021-2022 election cycle segment is \$2,000. Minn. Stat. § 10A.27, subd. 1 (a) (3).

Minnesota Statutes section 10A.121, subdivision 1, provides that independent expenditure political funds may make independent expenditures, while subdivision 2 provides penalties for certain actions by an independent expenditure political fund. The statute provides that

a) An independent expenditure political committee or independent expenditure political fund is subject to a civil penalty of up to four times the amount of the contribution or approved expenditure if it does the following:

- (1) makes a contribution to a candidate, local candidate, party unit, political committee, or political fund other than an independent expenditure political committee or an independent expenditure political fund; or
- (2) makes an approved expenditure.

(b) No other penalty provided in law may be imposed for conduct that is subject to a civil penalty under this section.

The term approved expenditure is defined in a manner designed to prevent a candidate from communicating with an association about an independent expenditure in support of that candidate or against that candidate’s opponent that the association may intend to make. Minnesota Statutes sections 10A.175 through 10A.177 describe relationships, communication, and other connections that would cause an expenditure to be a coordinated expenditure and not an independent expenditure. Those provisions do not prohibit all relationships between candidates and entities that may make independent expenditures. For example, Minnesota

Statutes section 10A.177 provides that a candidate may, without destroying the independence of any subsequent expenditure, provide “to a spender names of potential donors, as long as the spender does not state or suggest to the candidate that funds received from use of the donor list will be used for independent expenditures to benefit the candidate.” Minnesota Statutes section 10A.177 provides that a spender may make a contribution to a candidate that it is not otherwise prohibited from making, without destroying the independence of any future expenditure related to that candidate, and an independent expenditure may include a link to a candidate’s website or social media page. Minnesota Statutes section 10A.177 also provides that a spender may use “a photograph, video, or audio recording obtained from a publicly available source or public event” without destroying the independence of an expenditure.


Minnesota Statutes section 10A.176, subdivision 7, classifies an expenditure as coordinated if it “is made with the candidate’s participation in... (1) any of the processes required for the creation and development of the expenditure, including budgeting decisions, media design, acquisition of graphics and text, and distribution of the final product.” In this case any expenditures made by the APP PAC likely consisted almost entirely of the cost to produce the video embedded within the tweet.

The complaint does not allege that the Crockett committee made an expenditure in order to retweet the tweet of the APP PAC or otherwise disseminate the video included in that tweet. The complaint does not allege that the Crockett committee coordinated with APP PAC prior to, or during, any of the processes used to create and develop the expenditures, as provided in Minnesota Statutes section 10A.176, subdivision 7. The complaint does not allege that the Crockett committee communicated with APP PAC after those expenditures were made, or after the expenditures had been released to the public domain. The complaint does not allege that the Crockett committee communicated with the APP PAC prior to the APP PAC’s expenditures being made or coordinated its actions with the APP PAC while those expenditures were being made. Without more, retweeting a tweet that contains content that is an independent expenditure, that is in the public domain, at no cost, does not constitute making an expenditure with the candidate’s participation within the meaning of Minnesota Statutes section 10A.176, subdivision 7. Therefore, expenditures made by the APP PAC are not coordinated expenditures by virtue of Ms. Crockett retweeting the tweet referenced in the complaint.

Having concluded that the tweet referenced in the complaint was not a coordinated expenditure based on the facts alleged in the complaint, the question that remains is whether the tweet or its content was nonetheless an approved expenditure. The complaint asserts that by retweeting the tweet, the Crockett committee consented to the APP PAC’s expenditures. However, consent cannot be given after the fact, or in this case, after the independent expenditure has been released to the public. Further, retweeting the content of one expenditure by a spender does not by itself constitute consent to any expenditure that may be made in the future by that same spender. Without more, retweeting a tweet that contains a video does not constitute consent to make future expenditures containing that video within the meaning of Minnesota Statutes section 10A.01, subdivision 4.

The alleged violation of the individual contribution limit and any alleged violation of the prohibition on contributions by independent expenditure political funds, stated by the complaint, is premised upon the assertion that the APP PAC made a contribution to the Crockett committee. Because the facts alleged in the complaint do not support that assertion, the complaint does not state a prima facie violation of Minnesota Statutes sections 10A.27, subdivision 1, or 10A.121.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (c), this prima facie determination is made by a single Board member and not by any vote of the entire Board. Based on the above analysis, the Vice Chair concludes that the complaint does not state a prima facie violation of Chapter 10A or of those sections of Chapter 211B under the Board's jurisdiction. The complaint is dismissed without prejudice.



George W. Soule, Vice Chair
Campaign Finance and Public Disclosure Board

Date: November 4, 2022

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

**PRIMA FACIE
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF CHANTAL OECHSLE REGARDING THE BERNIE (PERRYMAN)
FOR HOUSE COMMITTEE

On September 14, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Chantal Oechsle regarding the Bernie (Perryman) for House committee. Bernie (Perryman) for House is the principal campaign committee of Bernadette Perryman, a candidate for Minnesota House of Representatives District 14A.

The complaint alleges that the Perryman committee ran radio advertisements without providing a transcript of the advertisements on the committee's website in violation of Minnesota Statutes section 10A.38. The complaint alleges that the Perryman committee has been running radio advertisements since at least July 16, 2022, on 99.1 FM.

Determination

Minnesota Statutes section 10A.38 states that “[a] campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's website a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so.” Per Minnesota Statutes section 10A.38, paragraph (a), this requirement applies only to candidates who have signed a public subsidy agreement with the Board. Board records show that Bernadette Perryman has not signed and filed a public subsidy agreement with the Board for the 2021-2022 election segment. The complaint therefore does not state a prima facie violation of Minnesota Statutes section 10A.38.

Pursuant to Minnesota Statutes section 10A.022, subdivision 3, paragraph (c), this prima facie determination is made by a single Board member and not by any vote of the entire Board. Based on the above analysis, the Chair concludes that the complaint does not state a prima facie violation of Minnesota Statutes section 10A.38. The complaint is dismissed without prejudice.



Faris Rashid, Chair
Campaign Finance and Public Disclosure Board

Date: 9/29/2022

CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD November 2022

ACTIVE FILES

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Ashley Martinez- Perez, Candidate	Ashley Martinez- Perez for MN House	2020 pre-general report of receipts and expenditures due 10/26/20, filed 10/28/20 2020 year end report of receipts and expenditures due 1/31/22, not filed	\$100 LFF \$1,000 LFF	6/13/22	8/12/22			

CLOSED FILES

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Jae Hyun Shim		Statement of Economic Interest due 1/25/2021	\$100 LFF \$1,000CP	9/7/21	2/9/22	11/1/22	11/3/2022	Closed