

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

.....
September 13, 2012

Room G-31

Minnesota Judicial Center

.....
MINUTES

The meeting was called to order by Chair McCullough.

Members present: Beck, Luger, McCullough, Peterson, Scanlon, Wiener

Others present: Goldsmith, Sigurdson, Pope, staff; Hartshorn, counsel

MINUTES (August 7, 2012)

Member Peterson's motion: To approve the August 7, 2012, minutes as drafted.

Vote on motion: Unanimously passed.

CHAIR'S REPORT

Board meeting schedule

The next Board meeting is scheduled for Tuesday, October 2, 2012.

EXECUTIVE DIRECTOR'S TOPICS

- A. Executive Director Goldsmith reported on current Board office operations including the recent MCLL decision.
- B. Mr. Goldsmith distributed the agency profile which is a form used in the budget process to briefly describe Board operations.
- C. Mr. Goldsmith asked the Board to ratify the Affirmative Action Plan which, he explained, has not significantly changed from the Board's previous plan.

Member Wiener's motion: To ratify the Affirmative Action Plan.

Vote on motion: Unanimously passed.

- D. Assistant Director Sigurdson asked for direction from the Board on the application of Minnesota Statutes section 10A.15, subdivision 3, to contributions received from an unregistered association. Mr. Sigurdson presented the Board with a memorandum on this issue which is made

a part of these minutes by reference. The Board discussed the matter and agreed with the staff approach to the matter. After discussion, the following motion was made:

Member Peterson's motion: To adopt the following position with respect to the application of Minnesota Statutes section 10A15, subdivision 3:

1. A contribution received from an unregistered association may be returned as provided in Minnesota Statutes section 10A.15, subdivision 3.
2. The statement of disclosure required for contributions of greater than \$100 from an unregistered association may be obtained by the recipient committee after the contribution is deposited as long as the statement is acquired before the contribution is deemed accepted.
3. If the statement of disclosure is not forwarded to the Board at the time the appropriate Report of Receipts and Expenditures is filed, the recipient committee will be notified of the omission and instructed to provide the statement within 10 days. A committee that is unable to provide the disclosure statement within 10 days must either return that portion of the contribution that is over \$100 to the unregistered association, or be in violation of the requirement to amend an omission in a filing to the Board as provided in provided in Minnesota Statutes section 10A.025, subdivision 4.

Vote on motion: Unanimously passed.

E. Mr. Goldsmith reported that the following complaints were not accepted and provided a brief description of each:

1. Kevin Fahey regarding Brandon Anderson – unspecified violation
2. Republican Party of Minnesota regarding Steve Smith – late report
3. Sheila Scott regarding Ian Alexander – inaccurate report due to software problem
4. Jim Eiteen regarding Bob Cunniff for State House – missing disclaimer on signs
5. Jerry Richter regarding Schmit for Senate – missing addresses
6. Kelly Gunderson regarding Tim Henderson for Senate Committee – missing contributions
7. Diane Johnson regarding Tim Henderson for Senate Committee – inaccurate reporting of contribution

ENFORCEMENT REPORT

The Board considered the monthly enforcement report presented by Assistant Executive Director Sigurdson. The Board took the following actions related to matters on the Enforcement Report:

Discussion Items

Waiver requests:

<u>Name of Committee or Candidate</u>	<u>Late Fee Amount</u>	<u>Report Due</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Sportsmen Vote Yes	\$50	7/17	Committee has terminated.	Scanlon	To waive the late fee.	Unanimous
Gary Bastian for Judge	\$300	7/30	Committee filed an intent- to-terminate form on 7/20. Candidate was not challenged in the election and the committee dispersed the funds to a 501c3. The committee filed a termination report.	Scanlon	To waive the late fee.	Unanimous
Tim Tingelstad	\$150	7/30	The affidavit of candidacy was not matched with the registered committee. The treasurer did not receive notice of the required filing. She uses the software and only had a year-end report available to file.	Beck	To waive the late fee.	Unanimous
Dave Meyer Committee	\$350	7/30	Committee used or attempted to use software to file report but encountered problems. Candidate used personal money for the committee, did not need to register. Terminated.	Lugar	To waive the late fee.	Unanimous
Todd County RPM	\$100	7/30	Treasurer was trying to use the software – had trouble uploading.	Lugar	To waive the late fee.	Unanimous
Minn Farm Bureau PAC	\$450	7/30	Person who uploaded the report says she followed the same process and the previous report.	Lugar	To waive the late fee.	Unanimous
Bois Forte Pol Educ Fund	\$100	7/30	Treasurer was confused with the names of the reports due in July.	Lugar	To waive the late fee.	Unanimous
Carpenters Local 361	\$400	7/30	Treasurer uploaded the 7/17 report again	Lugar	To waive the late fee.	Unanimous
Minn CAP- PAC	\$350	7/30	Treasurer uploaded the 6/19 report again	Lugar	To waive the late fee.	Unanimous
VOTE 66	\$400	7/30	Treasurer uploaded the 7/17 report again	Lugar	To waive the late fee.	Unanimous
Lyon County DFL	\$150	7/30	Had trouble uploading report with the software, tried to contact staff. Filed a paper report.	Lugar	To waive the late fee.	Unanimous
SMART PAC	\$350	7/30	Had trouble uploading	Lugar	To waive the late fee.	Unanimous

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Cass County RPM	\$250	7/30	Treasurer uses the software for another committee. He had not received the notice for the party unit until after the due date.	Lugar	To waive the late fee.	Unanimous
Branch 28 NALC Pol Action	\$550	7/30	Treasurer thought the report was transmitted but missed the upload step.	Lugar	To waive the late fee.	Unanimous
Freedom to Marry	\$50	7/17	Treasurer was unable to submit the report on 7/17 with the software. Received technical help the next day.	Lugar	To waive the late fee.	Unanimous
67 th SD DFL	\$500	7/30	Treasurer thought the report was filed using the software	Lugar	To waive the late fee.	Unanimous
Carpenters Local 322 PAC	\$150	7/17	Treasurer thought the report was filed using the software	Lugar	To waive the late fee.	Unanimous
Planned Parenthood of MN Pol Action	\$50	7/17	Treasurer needed to edit an entry in the report before filing and was unable to contact staff for help.	Lugar	To waive the late fee.	Unanimous
Planned Parenthood of MN, ND, SD Action	\$50	7/17	Same as above	Lugar	To waive the late fee.	Unanimous
Lockridge, Grindal, Nauen PLLP	\$100	6/19	Software uploading issue.	Lugar	To waive the late fee.	Unanimous
Indep Community of Bankers	\$200	7/17	New user of the software did not correctly upload the report	Lugar	To waive the late fee.	Unanimous
59 th SD DFL	\$100	7/30	Computer/software issue	Lugar	To waive the late fee.	Unanimous
16 th Senate Dist	\$650 LF	7/30	Party unit has terminated.	Peterson	To waive the late fee.	Unanimous
20 th Senate Dist	\$50 LF	7/30	Party unit has terminated.	Peterson	To waive the late fee.	Unanimous
24 th Senate Dist	\$200 LF	7/30	Party unit has terminated.	Peterson	To waive the late fee.	Unanimous
29 th Senate Dist	\$150 LF	7/30	Party unit has terminated.	Peterson	To waive the late fee.	Unanimous
30 th Senate Dist	\$150 LF	7/30	Party unit has terminated.	Peterson	To waive the late fee.	Unanimous
52 nd Senate Dist	\$700 LF	7/30	Party unit has terminated.	Peterson	To waive the late fee.	Unanimous
53 rd Senate Dist	\$50 LF	7/30	Party unit has terminated.	Peterson	To waive the late fee.	Unanimous

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Citizens for Smith	\$150	7/17	Staff was contacted by the committee on July 17. The group associated with the Citizens for Smith, an independent expenditure committee, also has a political fund and reports using the software. A conversation between Board staff and the committee's staff was misunderstood.	Lugar	To waive the late fee.	Unanimous
Samuel Beard for State Rep	\$200	7/30	The committee registered on 7/13. The treasurer called on July 30 to get a user name and password for the software. Staff advised her to file a paper report.	Beck	To waive the late fee.	Unanimous
Marshall County DFL	\$250	7/30	New treasurer took time to reconcile previous year.	Peterson	To waive the late fee.	Motion carried 4-2 (Luger, Beck voting against)
Eric Blair	\$100	EIS	A family matter delayed the candidate from filing the economic interest statement	Beck	To waive the late fee.	Unanimous
Norman County RPM, Duane Hoven	\$750	7/30	Treasurer twice sent in the request for a waiver of electronic filing, thinking it was a waiver of filing a report. Staff contacted him and clarified the error; he does not have a computer to download a report form. Staff mailed one to him.	Wiener	To reduce the late fee to \$100.	Unanimous
Cory Pylkka MN 11A	\$50	7/30	Mailed the report on 7/31.	No motion		
Jill Clark for Justice	\$85 Late registration	7/6	Treasurer states candidate was delayed in registering a committee due to ill health	Withdrawn		
Reid Johnson for House	\$1000 Late fee \$800 Civil Penalty	2011 report due 1/31/12	Candidate states the treasurer was out of the country when the 2011 report was due. Board records were not changed to reflect the treasurer's name which appeared on the cover page of the report filed with the software in 2010. The name was not on the original registration form. Mail was being sent to the candidate. Staff spoke to Mr. Johnson a few times by phone to remind him of the reporting requirement.	No motion		
Minn Women's Political Caucus	\$50	7/30	Attempted to fax the report on due date but it did not go through. Faxed it the next morning.	No motion		
Pennington County RPM	\$100	7/30	Treasurer received the mailing but thought a report wouldn't be due until August.	No motion		

Carlton County RPM	\$100	7/30	Treasurer missed deadline.	No motion		
6 th Judicial District	\$100	7/30	Same as above.	No motion		
Count Them All Properly, Inc.	3,000 civil penalty		Waiver requested on conditions that committee will terminate registration and pay to the Board the remaining money in its treasury, which is slightly in excess of \$1,000.	Wiener	To grant the partial waiver based on payment and termination.	Unanimous

Informational Items

A. Payment of a late filing fee for the June 19, 2012 56-day pre-primary-election report:

MIFSC, \$50
 Pass the Minnesota Health Plan, \$150
 Progressive Majority Minnesota, \$200
 St Paul Police Federation Political Awareness Fund, \$100
 Twin Cities Republican Association, \$50

B. Payment of a late filing fee for July 17, 28-day pre-primary-election report:

Aitkin County DFL Club, \$50
 BAM PAC, \$50
 Dakota County Regional Chamber Leadership Fund, \$150
 HealthPartners Civic Affairs Council, \$50
 Libertarian Party of Minn, \$50
 MAIDA, \$100
 North Star SFAA, \$50
 School Lunch Bunch, \$50
 SEIU Local 26 Pol Fund, \$150
 Suburban School Employees Local 284 Pol Action, \$50
 VET PAC, \$50
 Xcel Energy Employee PAC, \$150

C. Payment of a late filing fee for July 30, 15-day pre-primary-election report:

HealthPartners Civic Affairs Council, \$200
 Libertarian Party of Minn, \$250
 Meagher & Geer PLLP, \$50
 Pass the Minnesota Health Plan, \$50
 St Paul Pipefitters 455 PAC, \$50
 Volunteer Fire Fighter Political Committee
 Tom Hackbarth Volunteer Committee, \$200
 Bev Scalze Volunteer Committee, \$100

D. Payment of a late filing fee for a 24-hour pre-election notice of a large contribution:

Friends of Michelle Fischbach, \$150
 IBEW Local 292, \$100

Minn Farmers Union, \$100

E. Payment of a late filing fee for the 2011 Report of Receipts and Expenditures due January 31, 2012:

Jeff Hayden for House, \$200
Supporters for Mick Spence, \$375

F. Payment of a late filing fee for a Candidate Economic Interest Statement:

Brandon Carmack, \$15
Tom Hackbarth, \$40
Ron Kresha, \$35
Steven Schiroo, \$35
Kirk Stensrud, \$5

G. Payment of a late filing fee for the June 15 Lobbyist Disbursement Report:

Rick Cardenas, Advocating Change Together, \$10
James Erickson, Friendship Village Bloomington, \$25
Forrest Wilkinson, Forest Workers League of Minn, \$50

H. Payment of a late filing fee for registration:

Count Them All Properly, \$100

I. Payment of a civil penalty for exceeding special source aggregate limit:

Friends of Kirk Stensrud, \$300. During 2011, the Committee reported accepting \$400 from lobbyists and \$1,200 from political committees and funds, for a total of \$1,600 from special source contributors. The total amount of these contributions exceeded by \$300 the applicable limit on aggregate contributions from special sources, which for a state representative candidate was \$1,300. Representative Stensrud entered into a conciliation agreement on August 7, 2012.

J. Payment of a civil penalty for a contribution from an unregistered association:

23rd Senate District DFL, \$180
Republican Party of Minnesota, \$5,000
John Schultz Volunteer Committee, \$150

K. Payment of a civil penalty for circumvention:

Tony Sutton, \$3,000

L. Deposit to the General Fund, State Elections Campaign Fund:

(Dan) Griffith for Judge, \$60 (anonymous)
Minnesota for Marriage, \$50 (anonymous)

ADVISORY OPINION REQUESTS

Advisory Opinion #429 – Scope of expenditures that should be reported as lobbying disbursements or included in the calculation of the Annual Report of Lobbyist Principal

The request that will result in Advisory Opinion 429 is non-public data and was received by the Board on June 8, 2012. Staff asks that the Board lay the matter over until the next meeting.

After discussion, the following motion was made:

Member Scanlon's motion: To lay Advisory Opinion #429 over until the next Board meeting.

Vote on motion: Unanimously passed.

LEGAL COUNSEL'S REPORT

Board members reviewed a memo from Counsel Hartshorn outlining the status of cases that have been turned over to the Attorney General's office. The Legal Counsel's Report is made a part of these minutes by reference.

OTHER BUSINESS

Mr. Goldsmith reported that Teresa Graham had filed an objection to the order of August 7, 2012, granting an exemption to the disclosure requirements of Chapter 10A to John Doe #1. At Ms. Graham's request, Mr. Beck recused himself from consideration of the matter. Mr. Goldsmith presented a memorandum on the issue to the Board which is made a part of these minutes by reference.

Ms. Graham made a statement to the Board.

After discussion, the following motion was made:

Member Peterson's motion: To adopt the order as drafted by staff affirming the decision to grant an exemption to John Doe #1.

Vote on motion: Unanimously passed (Beck recused and not voting).

EXECUTIVE SESSION

The Chair recessed the regular session of the meeting and called to order the Executive Session. Upon completion of the Executive Session, the regular session of the meeting was called back to order and the following items were reported from the Executive Session:

Findings and Order in the Matter of the complaint of Common Cause regarding NOM Minnesota Marriage Fund

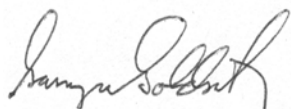
The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

Findings and Order in the Matter of a lobbyist contribution made without a registration number by Michael McGovern to the People for (Gregory) Davids Committee

The Chair reported that in its executive session, the Board made findings and issued an order in the above matter. See Findings and Order which are attached to and made a part of these minutes.

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

Respectfully submitted,

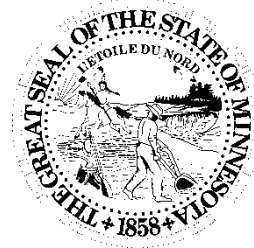


Gary Goldsmith
Executive Director

Attachments:

September 10, 2012, memorandum regarding direction to staff on the application of Minnesota Statutes section 10A.15, subdivision 3, to contributions received from an unregistered association
Findings and Order in the Matter of the complaint of Common Cause regarding NOM Minnesota Marriage Fund
Findings and Order in the Matter of a lobbyist contribution made without a registration number by Michael McGovern to the People for (Gregory) Davids Committee

Campaign Finance *and* Public Disclosure Board



190 Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

DATE: August 27, 2012

TO: Board Members
Counsel Hartshorn

FROM: Jeff Sigurdson
Assistant Director
(651) 539-1189

SUBJECT: Board Direction to Staff Regarding the Application of Minnesota Statutes section 10A.15, subdivision 3, to Contributions Received from an Unregistered Association.

When staff provides assistance to a candidate committee that has accepted a contribution in violation of Chapter 10A, the solution to the problem is often found in the provisions of Minnesota Statutes section 10A.15, subdivision 3. This statute provides the timeline for returning a contribution so that the contribution is not considered accepted by the recipient committee. The statute states in part:

...A candidate, principal campaign committee, political committee, political fund, or party unit may refuse to accept a contribution. A deposited contribution may be returned to the contributor within 60 days after deposit. A contribution deposited and not returned within 60 days after that deposit *must be reported as accepted*. (emphasis added)

A candidate committee may use this provision to clear potential violations when a deposited contribution exceeds the special source or aggregate contribution limits for the candidate's office. The return of a contribution within 60 days of deposit may also be used to cure a sessional contribution violation from a lobbyist or political committee or fund. If the excess contribution is not returned within 60 days of deposit, the contribution is deemed accepted, and the violation may be cured only with a conciliation agreement or findings. Of note is that the statute starts a 60-day return period at the time of deposit, but does not consider the deposit of the contribution as the point at which the contribution has been accepted.

What has been less clear to staff in the past is whether a committee may return within 60 days a contribution of over \$100 from an unregistered association to clear a violation of Minnesota Statutes section 10A.27, subdivision 13. This statute provides that a candidate committee, political party unit, or political committee or fund may accept a contribution of more than \$100 from an association not registered with the Board if it receives a statement from the unregistered association that provides equivalent disclosure to the reporting requirements of Chapter 10A. The disclosure provided by the unregistered association is forwarded to the Board by the recipient committee when the contribution is reported on a Report of Receipt and Expenditures. The disclosure

statement serves to provide the public with insight to the source of funding used for contributions to committees and funds registered in Minnesota even when the association making the contribution is not registered under Chapter 10A.

The purpose of this memo is to ask for Board review of staff's conclusion that the 60 day return period may also be used to cure a violation of Minnesota Statutes section 10A.27, subdivision 13, and further, that the 60 day period may be used to obtain a disclosure statement from an unregistered association, and to request Board direction to staff on the enforcement of Minnesota Statutes section 10A.27, subdivision 13.

Disclosure from an Unregistered Association.

Minnesota Statutes section 10A.27, subdivision 13, regulates contributions from unregistered associations and provides in part:

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

The potential consequences for violations under this statute are severe, with a penalty of up to four times the amount of the contribution over \$100 on the recipient committee, and a penalty of up to \$1,000 per contribution made without accompanying disclosure on the donor association.

Return of a Contribution Received from an Unregistered Association Without Accompanying Disclosure.

Applying the 60-day-from-deposit timeframe for accepting a contribution provided in Minnesota Statutes section 10A.15, subdivision 3, to the "*must not accept a contribution*" requirement in Minnesota Statutes section 10A.27, subdivision 13, staff concludes that depositing a contribution from an unregistered association without the required disclosure is not a violation if the contribution is returned within 60 days. The alternative is to conclude that contributions under Minnesota Statutes section 10A.27, subdivision 13, are governed under a different standard than that provided for all other types of contributions made by individuals and by associations that are registered with the Board.

By extension, if the contribution is not accepted until the conclusion of the 60-day period, then that same period of time may also be used as a window during which the recipient committee can obtain the statement of disclosure from the unregistered committee. While Minnesota Statutes section 10A.27, subdivision 13, uses the language "unless the contribution is accompanied by" in reference to the disclosure statement, the requirement to obtain the disclosure statement is contingent on the recipient committee accepting the contribution, which as discussed above occurs 60 days after deposit.

Allowing a recipient committee to acquire the disclosure statement from an unregistered association after the contribution is deposited does not negate the requirement in Minnesota Statutes section 10A.27, subdivision 13, that the disclosure statement be forwarded to the Board at the time the contribution is disclosed on a Report of Receipts and Expenditures. Failure to provide the disclosure statement to the Board would be treated as an omission that may be resolved by amendment. If the recipient committee is unable to provide the disclosure statement within the ten-day period for amending the filing with the Board, the amount of the contribution over \$100 must be returned to the unregistered association, or a violation of that portion of Minnesota Statutes section 10A.27, subdivision 13, requiring the forwarding of the disclosure statement to the Board with the applicable Report of Receipts and Expenditures will occur.

Board Direction Requested

Staff requests direction with regard to the return of contributions over \$100 received from unregistered associations, the time frame in which the recipient committee may obtain a disclosure statement from an unregistered association, and the enforcement of the requirement that the disclosure statement from an unregistered association be forwarded to the Board at the time the recipient committee files a Report of Receipts and Expenditures.

If the Board elects a position consistent with the discussion in this memorandum, the Board's position could be stated as follows:

1. A contribution received from an unregistered association may be returned as provided in Minnesota Statutes section 10A.15, subdivision 3.
2. The statement of disclosure required for contributions of greater than \$100 from an unregistered association may be obtained by the recipient committee after the contribution is deposited as long as the statement is acquired before the contribution is deemed accepted.
3. If the statement of disclosure is not forwarded to the Board at the time the appropriate Report of Receipts and Expenditures is filed, the recipient committee will be notified of the omission and instructed to provide the statement within 10 days. A committee that is unable to provide the disclosure statement within 10 days must either return that portion of the contribution that is over \$100 to the unregistered association, or be in violation of the disclosure requirements of Minnesota Statutes section 10A.27, subdivision 13.

If you have questions or suggestions please feel free to contact me before the Board meeting.

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

**Findings and Order in the Matter of the Complaint of Common Cause Minnesota
regarding the National Organization for Marriage and Minnesota for Marriage**

On July 11, 2012, the Campaign Finance and Public Disclosure Board received a complaint from Common Cause Minnesota (CCM) signed by Mike Dean, its Executive Director, regarding the National Organization for Marriage (NOM) Minnesota Marriage Fund. This complaint alleges that Minnesota for Marriage (MFM) reported receiving a contribution from the NOM Fund on its 56-day pre-primary report of receipts and expenditures while the NOM Fund did not report giving a contribution to MFM on its report. The complaint asserts that the NOM Fund's omission was intentional and that the NOM Fund therefore should be penalized for filing a false report with the Board.

The complaint also alleges that the NOM Fund failed to report the source of the \$15,000 contribution that it made to MFM. The complaint asserts that this money came from an association that was not registered with the Board and that the contributor therefore was required to disclose the source of the funds used to make the contribution. The complaint maintains that the NOM Fund should be penalized for failing to include this underlying source disclosure with its 56-day report.

The complaint finally provides evidence that the NOM website asked for donations to MFM and that NOM also sent out email solicitations asking for donations to MFM. The complaint claims that these website and email solicitations constitute in-kind contributions from NOM to MFM that were not reported on MFM's 56-day pre-primary report.

MFM submitted its 56-day pre-primary report on June 19, 2012. On this report, MFM listed a \$15,000 contribution from the NOM Fund. The NOM Fund report did not list a contribution to MFM. Shortly after MFM filed its report, the discrepancy between that report and the NOM Fund report was discovered.

On July 6, 2012, before the complaint was filed with the Board, MFM submitted an amended report. In the amended report, MFM stated that it had incorrectly reported the source of the \$15,000 contribution and that this contribution actually had been made by NOM. NOM is not registered with the Board. NOM submitted a statement with its contribution to MFM certifying that none of the sources of funds used to make the contribution had given more than \$1,000 to NOM and, therefore, itemization of underlying donations was not required for this contribution. MFM included the statement from NOM with the amended report.

On August 14, 2012, the Board sent letters to MFM and NOM asking them to provide information about the NOM webpage and email solicitations. On August 20, 2012, MFM submitted an amended report listing the website and email solicitations provided through July 23, 2012, as in-kind contributions from NOM to MFM. These services were valued at their cost, which was \$6,944.78. NOM provided the required underlying disclosure forms to MFM. Both NOM and MFM stated that NOM had been tracking the cost of these contributions but had "inadvertently neglected" to notify MFM so that the value could be reported as in-kind contributions on MFM's report. Both NOM and MFM stated that NOM had implemented new procedures to ensure that information about any future in-kind contributions would be forwarded timely from NOM to MFM along with the required underlying disclosure forms.

Board Analysis

The first issue raised in the complaint is that MFM reported a contribution from the NOM Fund on its 56-day pre-primary report of receipts and expenditures while the NOM Fund did not report any contribution to MFM on its report.

The purpose of Minnesota Statutes chapter 10A is to promote accurate disclosure of political committee or fund financial transactions so that the public can know how that committee or fund is raising and spending its money. To further this goal, Minnesota Statutes section 10A.20, subdivision 3, requires political committees and funds to disclose on their campaign finance reports the names and addresses of anyone who contributed more than \$100 to the committee or fund.

In the present case, MFM incorrectly reported that the NOM Fund was the source of the \$15,000 contribution when NOM actually had made this contribution. There is no evidence showing that this mistake was intentional. Consequently, the record here supports a finding that MFM inadvertently violated the campaign finance reporting requirements by misidentifying the source of a contribution.

A political committee or fund can remedy an error or omission in a report filed with the Board without penalty if the correction is made promptly as provided in Minnesota Statutes section 10A.025, subdivision 4. Here, before the complaint was filed, MFM promptly amended its report to show that NOM was the true source of the \$15,000 contribution. Further, MFM submitted the underlying disclosure provided by NOM with the amendment. Consequently, MFM has remedied the first reporting error.

The next issue raised in the complaint is that MFM failed to report NOM's website and email solicitations for donations to MFM as in-kind contributions to MFM. Chapter 10A defines an in-kind contribution as "anything of value that is given [to a committee or fund], other than money or negotiable instruments." Minnesota Statutes section 10A.20, subdivision 3, requires a political committee or fund to report in-kind contributions at their fair market value.

Here, NOM created a webpage that solicited donations for MFM and sent email solicitations seeking donations for MFM. MFM, however, failed to report these in-kind contributions on its 56-day pre-primary report. Again, there is no evidence showing that this omission was intentional. Consequently, the record here supports a finding that MFM inadvertently filed an incomplete report of the committee's financial activities.

The record also shows, however, that after being notified of the omission by the Board, MFM promptly amended its report to include the in-kind contributions provided through the date of the most recent report. MFM properly used the actual cost of the webpage and email solicitations to value these contributions. MFM also included the underlying disclosure submitted by NOM with its amendment. Consequently, MFM has remedied this reporting violation.

Findings Concerning Probable Cause

Based on the record in this matter, the Board makes the following findings:

1. There is probable cause to find that Minnesota for Marriage inadvertently misidentified the source of a \$15,000 contribution on its 56-day pre-primary report.
2. There is probable cause to find that Minnesota for Marriage inadvertently omitted \$6,944.78 of in-kind contributions from the National Organization for Marriage on its 56-day pre-primary report.
3. Minnesota for Marriage has remedied both reporting violations by submitting amended reports identifying the National Organization for Marriage as the true source of the \$15,000 contribution and as the source of the \$6,944.78 of in-kind contributions. The required underlying disclosure was submitted with the amended report.

Order

Based on the above finding, the Board issues the following order:

The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11.

Dated: September 7, 2012

Greg McCullough, Chair
Campaign Finance and Public Disclosure Board

Relevant statutes

Minn. Stat. § 10A.01, subd. 13. Donation in-kind. “Donation in-kind” means anything of value that is given, other than money or negotiable instruments. An approved expenditure is a donation in-kind.

Minn. Stat. § 10A.025, subd. 4. Changes and corrections. Material changes in information previously submitted and corrections to a report or statement must be reported in writing to the board within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy. The change or correction must identify the form and the paragraph containing the information to be changed or corrected

Minn. Stat. § 10A.20, subd. 3. Contents of report.

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

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

**Findings and Order in the Matter of a Contribution Made by Michael McGovern to
the People for (Gregory) Davids Committee**

Summary of the Facts

Minnesota Statutes section 10A.15, subdivision 5, prohibits a lobbyist registered with the Campaign Finance and Public Disclosure Board from making a contribution to a candidate without providing the lobbyist's name and registration number. A lobbyist who violates this section is subject to a civil penalty imposed by the Board of up to \$1,000. This statutory provision exists to ensure that candidates may accurately identify the source of the contribution and thereby apply the amount of the contribution against the appropriate aggregate special source contribution limit. The aggregate special source limit is the total amount that a candidate may accept from political committees or funds, lobbyists, and large donors.

The 2012 pre-primary-election Report of Receipts and Expenditures filed with the Board by the People for (Gregory) Davids Committee (the Committee) reported receiving a \$250 contribution from Michael McGovern. The contribution was reported as a donation from an individual. After notification from Board staff that the contribution may have been from a similarly named lobbyist, the Committee researched the contribution and then filed an amended Report of Receipts and Expenditures. The amended report listed the contribution as coming from Michael McGovern on January 23, 2012, who was a registered lobbyist on the date of the contribution.

After reclassifying the contribution, the Committee received \$7,150 in special source contributions, which exceeded by \$250 the applicable aggregate special source limit of \$6,900 for a state representative candidate.

Minnesota Statutes section 10A.15, subdivision 3, allows a candidate to return a contribution within 60 days of deposit to clear a limits violation. On August 16, 2012, the Committee returned \$250 to Mr. McGovern, but the return was not it was within the 60 day period. The Committee also returned \$150 to a political fund, which was within 60 days of deposit, thereby reducing the amount of accepted contributions from special sources to \$7,000. Copies of the checks used to return the contributions were provided to the Board. As a result, the People for (Gregory) Davids Committee exceeded the aggregate special source limit in 2012 by \$100.

In a letter dated August 16, 2012, Reid LeBeau II, counsel for the Committee, states that the contribution from Mr. McGovern was made by check that did not provide a lobbyist registration number. Mr. LeBeau provided a copy of the check from Mr. McGovern to the Committee with his response. In addition, the address on the check was not the same as the address in the Board's lobbyist database for Michael McGovern.

In response to a Board inquiry, Mr. McGovern states that he registered as a lobbyist in 1998 because his position as president of an association may have included activities that would have qualified him as a lobbyist. Mr. McGovern further states that in 2012 he learned that the definition of a lobbyist had changed since 1998, and that his activities would no longer fall under that definition. Mr. McGovern believes that he was not a

lobbyist when he made the contribution to the Committee. However, Mr. McGovern did not terminate his lobbyist registration until August 22, 2012.

This matter was considered by the Board in executive session on September 7, 2012. The Board's decision is based on the correspondence from Mr. LeBeau and Mr. McGovern and on Board records.

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

Findings Concerning Probable Cause

1. There is probable cause to believe that Michael McGovern violated Minnesota Statutes section 10A.15, subdivision 5, by contributing \$250 to the People for (Gregory) Davids Committee without providing his lobbyist registration number with the contribution.
2. There is probable cause to believe that because there was no registration number to identify the donor as a lobbyist the People for (Gregory) Davids Committee accepted the donation with the belief that the contribution was from an individual, and not from a registered lobbyist.
3. There is probable cause to believe that the People for (Gregory) Davids Committee has returned \$250 to Michael McGovern, thereby removing the excess contribution from its account.
4. There is no probable cause to believe that the violations were intentional or done with the intent to circumvent the requirements of Minnesota Statutes Chapter 10A.

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

Order

1. The Board imposes no civil penalty on the People for (Gregory) Davids Committee for exceeding the 2012 aggregate contribution limit from special source contributors.
2. The Board imposes a civil penalty of \$250, which is one times the amount of the contribution, on Michael McGovern for failure to provide a registration number with the contribution.
3. Michael McGovern is directed to forward to the Board payment of the \$250 civil penalty, by check or money order payable to the State of Minnesota, within 30 days of receipt of this order.
4. If Michael McGovern does not comply with the provisions of this order, the Board's Executive Director may request that the Attorney General bring an action for the remedies available under Minnesota Statutes section 10A.34.

5. The Board investigation of this matter is entered into the public record in accordance with Minnesota Statutes section 10A.02, subdivision 11, and upon payment by Michael McGovern of the civil penalty imposed herein, the matter is concluded.

Dated: September 7, 2012

Greg McCullough, Chair
Campaign Finance and Public Disclosure Board

Relevant Statute

Minnesota Statutes section 10A.15, subdivision 5. **Registration number on checks.** A contribution made to a candidate by a lobbyist, political committee, political fund, or party unit must show the name of the lobbyist, political committee, political fund, or party unit and the number under which it is registered with the board.