

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

.....

**September 2, 2014**

**Room G-31**

**Minnesota Judicial Center**

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**MINUTES**

The meeting was called to order by Chair Wiener.

Members present: Beck, Oliver, Peterson, Rosen, Sande, Wiener

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

**MINUTES** (August 13, 2014)

Member Beck proposed adding the following sentence to the rulemaking section of the minutes:

Board members also discussed the possibility that the public nature of staff reviews would violate the confidentiality provisions of the statute.

After discussion, the following motion was made:

Member Beck's motion:	To approve the August 13, 2014, minutes as amended.
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Vote on motion:	Unanimously passed.
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**CHAIR'S REPORT**

**Board meeting schedule**

The next Board meeting is scheduled for October 7, 2014.

**EXECUTIVE DIRECTOR TOPICS**

**Status of office operations**

Mr. Goldsmith reported that he was nearly finished drafting a letter for the Chair's signature that would update the legislature on the progress of the Board's website redevelopment initiative. Members discussed a decision issued by the Office of Administrative Hearings (OAH) involving the lack of a disclaimer on the Facebook page for a local candidate. Mr. Goldsmith explained that the Board had jurisdiction over disclaimer issues for offices and ballot questions governed by Chapter 10A and the OAH had jurisdiction over disclaimer issues for local offices and local

ballot questions. Mr. Goldsmith stated that the OAH decision was consistent with the advice given by Board staff on this issue and that he planned to prepare a written guidance on the issue for treasurers and the Board website. Mr. Goldsmith said that staff also had started on the budget process for the next biennium and had processed several complaints in the three weeks since the last meeting.

### **Reconciliation of board data**

Assistant Director Sigurdson presented members with a memorandum on this topic that is attached to and made a part of these minutes. Mr. Sigurdson noted that for the years 2011 through 2013, over 99% of the reported transfers reconciled and over 98% of the transfers were reconciled for 2010. Mr. Sigurdson stated that there were several unreconciled transfers for 2014. Mr. Sigurdson believed that many of the unreconciled transfers in 2014 were contributions to state senate candidates. Mr. Sigurdson said that because state senate seats are not up for election in 2014, those candidates are not required to file reports until January 2015. Consequently, contributions to senate candidates appear as unreconciled transactions at this time.

Mr. Sigurdson and Mr. Goldsmith stated that although Board records would be used to reconcile as many pre-2010 transactions as possible, resolving all pre-2010 discrepancies might be impracticable due to the difficulty in finding committee records and treasurers for those years.

### **Website redevelopment**

Mr. Goldsmith told members that the redesign of the new homepage was continuing. Mr. Goldsmith also had prepared a survey for users of the Board website. Mr. Goldsmith stated that staff had tested the survey and that he may also send it to members for testing. The survey then would be sent to the public.

### **Board policy review**

#### **Contributions made and received during the legislative session**

Mr. Goldsmith presented members with a memorandum on this topic that is attached to and made a part of these minutes. Mr. Goldsmith stated that the prohibition on soliciting, accepting, or making contributions applies "during a regular session of the legislature." Mr. Goldsmith said that it had always been the Board's understanding that a regular session of the legislature started on the first day of session in a calendar year. Mr. Goldsmith also said it had always been the Board's understanding that a regular session in the first year of the biennium ended when the session was adjourned until the next calendar year. In the second year of the biennium, the session ended with adjournment sine die.

Mr. Goldsmith said that no administrative rules had been adopted with regard to this provision and there were no judicial interpretations. However, at its meeting of November 22, 1996, the Board discussed the fact that the session is typically called to order at noon on the first day and may adjourn at any time on the last day. The Board recognized that, technically, a contribution

could be made or received on the date that the session started or ended, but before the session was called to order or after adjournment for the calendar year. At that time (November 22, 1996) the Board passed a motion stating that a contribution received at any time on the first or last day of a legislative session would be considered received during the session

Mr. Goldsmith stated that since the adoption of this motion, Board handbooks, training, and staff advice had informed clients that a contribution solicited, accepted, or made any time during the first or last day of a regular session was prohibited.

Mr. Goldsmith noted that since 1996, technologies have changed significantly and many contributions now are made and received through electronic transfers where a record of the exact time of the transaction is automatically generated. Mr. Goldsmith said that this made it possible in some cases to know with certainty if a contribution was made or received "during" the session. Mr. Goldsmith stated that there still would be many transactions for which the time that the contribution was made or received could not be proven by documentary evidence.

Mr. Goldsmith said that staff was concerned that there is not a sufficient statutory basis to maintain the position articulated in 1996 that the sessional fundraising prohibition starts before the time that the session is actually called to order or ends at a time later than the session adjourns for the year. Mr. Goldsmith asked the Board to consider an approach based on a presumption that a contribution received on the first or last day of a regular session was received during the session and to also consider whether to add a change to the statute to its legislative agenda.

After discussion, the following motion was made:

Member Beck's motion:

To adopt the following resolution:

RESOLVED,

The Executive Director is directed that when a contribution is reported as made or received on the first day or the last day of a regular session of the legislature, the Executive Director should presume that the contribution was made or received "during a regular session of the legislature." This presumption may be rebutted by evidence of the actual time that the contribution was made or received. If the contribution was made or received before the call to order of the session or after adjournment of the session for the calendar year, there is no violation of section 10A.273.

FURTHER RESOLVED,

The policy regarding sessional contributions adopted by the Board at its meeting of November 22, 1996, is hereby revoked. The Executive Director is instructed to update all relevant Board handbooks and other educational materials.

Vote on motion:

Unanimously passed.

### **Special expense policy**

Mr. Goldsmith presented members with a memorandum on this topic that is attached to and made a part of these minutes. Mr. Goldsmith said that pursuant to a Minnesota Management and Budget requirement, the Board had adopted a policy on special expense reimbursement in November 2005 and had revised the policy in 2009. Mr. Goldsmith explained that at that time, the policy applied only to expenses that were reimbursed to employees under the state contracts. It did not apply to any purchases done in the ordinary course of agency operations through the encumbrance and purchase order process, wherein vendors are paid directly for services. A special policy was required for employee reimbursements because funds for those costs are not encumbered and it was necessary to know in advance if significant obligations were going to be incurred by employees. Mr. Goldsmith stated that as a practical matter, reimbursement of special expenses was very rare in the agency as most purchases are made through the ordinary purchasing process. On a few occasions employees were reimbursed for small amounts for seminars and conferences.

Mr. Goldsmith reported that MMB had now changed its policy and required that all employee training be treated as a special expense, even when that training was not handled as a reimbursement, but was handled as a regular agency purchase. Mr. Goldsmith said that in the past, he had approved employee training expenses through the normal purchasing processes. Thus, these expenses did not fall under the Board's special expenses reimbursement policy. Mr. Goldsmith said that the expenses that will fall under the new policy will relate primarily to costs of technical training for information technology staff. The new policy does not cover training that costs less than \$500, which includes most other staff training.

Mr. Goldsmith told the Board that the revised policy was designed to maintain the Board's past practice in which the Executive Director is responsible for approval of staff training. It also was modified to change the definition of special expenses to be consistent with MMB's new definitions.

After discussion, the following motion was made:

Member Peterson's motion:	To adopt the proposed special expense policy.
Vote on motion:	Unanimously passed.

**ENFORCEMENT REPORT**

**Discussion items**

**Request to Waive \$300 Late Filing Fee for Annual Principal Report due 3/7/2014 and Terminate Lobbyist Registration as of 12/31/2013 – Waasigan USA LLC.**

Mr. Fisher told members that no disbursements had ever been made by the principal for any lobbying activities. Mr. Fisher also said that during the filing period, the individual in charge of filing the report was experiencing personal issues.

After discussion, the following motion was made:

Member Peterson's motion: To waive the late filing fee and to terminate the lobbyist registration as of 12/31/2013.

Vote on motion: Unanimously passed.

**Waiver requests**

<u>Name of Candidate or Committee</u>	<u>Late Fee Amount</u>	<u>Civil Penalty Amount</u>	<u>Reason for Fine</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
1st Congress. Dist. IPMN	\$200	\$0	7/28/2014 Pre-primary	New treasurer registered with Board on July 16. Computer issues and difficulties getting acquainted with position led to late filing.	Sande	To waive the late fee.	Unanimous
4th Congress. Dist. GPM	\$1,000	\$0	6/16/2014 2nd Report	Treasurer was dealing with health issues around filing deadline.	Sande	To waive the late fee.	Unanimous
Citizens for John Persell	\$400; 4 LFFs	\$0	24 hr. notices	Initial treasurer responsible for report experiencing health issues, new treasurer registered with Board on July 22 and had trouble gathering the required materials and getting up to speed.	Sande	To waive the late fee.	Unanimous
Brandl (Jean) for Judge	\$200; 3 LFFs	\$0	24 hr. notices	Candidate has lack of experience, could not find treasurer, and did not initially understand that contributions from self would have to be reported.	Peterson	To waive the late fee.	Unanimous
Victor Lake for House	\$50	\$0	7/28/2014 Pre-primary	Treasurer/candidate experienced issues with the software.	Oliver	To waive the late fee.	Unanimous
SMART PAC	\$100	\$0	7/28/2014 Pre-primary	Committee is having difficulty correcting cash balances and reconciling previous reports with the Board. Committee also experienced computer issues.	No motion		

**Informational Items**

**A. Payment of a late filing fee for candidate election year Economic Interest Statement:**

Tara Mack, \$15  
Kirk Stensrud, \$35

**B. Payment of a late filing fee two 2012 pre-primary-election Reports of Receipts and Expenditures:**

Local 28 Political Fund, \$600

**C. Payment of a late filing fee for 2012 24-hour notice of pre-primary-election large contribution:**

Housley (Karin) for Senate, \$250

**D. Payment of a late filing fee June 16, 2014, Report of Receipts and Expenditures:**

MNAES PAC, \$150

**E. Payment of a late filing fee July 28, 2014, Report of Receipts and Expenditures:**

NAIOP Economic Growth Fund, \$150

**F. Payment of a late filing fee for 2014 24-hour notice of pre-primary-election large contribution:**

Education Minnesota, \$100  
Northeast ALC, \$100

**G. Payment of a late filing fee for March 17, 2014, Annual Report of Lobbyist Principal 2013:**

MN Vacation Rentals, \$100

**H. Payment of a late filing fee for June 16, 2014, lobbyist disbursement report:**

Nicholas Banovetz, 50CAN, \$100

**I. Payment of a civil penalty for exceeding contribution limit:**

MN United PAC, \$2,000

**J. Deposit to the General Fund, State Elections Campaign Fund:**

Carla Nelson for Senate, \$50 (anonymous)

## **RULEMAKING**

Ms. Pope presented members with a memorandum on this topic that is attached to and made a part of these minutes. Ms. Pope reported that the official comment period for the proposed rules had ended on August 27, 2014, and that four comments had been received. The memorandum presented to the Board discussed the suggestions made early in the comment period but did not include the comments made on the last day of the comment period.

Ms. Pope reported that the suggested modifications to the proposed rules generally fell into four categories. The most significant modifications concerned staff reviews. Ms. Pope stated that under the rules as proposed, the executive director had the authority to conduct a staff review of a potential violation that was disclosed on a report filed with the Board. The Board also could direct the executive director to conduct a staff review in other matters. Because the proposed rules did not classify these staff reviews as investigations, they would have been public under the data practices provisions currently applicable to the Board.

Ms. Pope said that the proposed modifications would make staff reviews a type of investigation. Staff reviews therefore would be confidential proceedings under current data practices laws. This also would eliminate the possibility that a staff review could be converted to a confidential proceeding after starting out in a public setting. Under the suggested modification, the executive director still would have the authority to conduct staff reviews of potential violations disclosed on reports filed with the Board and the Board still would have the authority to order staff reviews into other matters.

Ms. Pope reported that the second category of modifications included changes suggested by the Revisor of Statutes that were made too late in the process to incorporate them into the proposed expedited rules as published. The most significant change in this category involved the definitions of prima facie determination and probable cause determination.

Ms. Pope told members that the Revisor had noted that the use of the word "sufficient" in the definitions of prima facie determination and probable cause determination might not be specific enough to be approved in a rule. Ms. Pope stated that it had been very difficult for the Board to craft a definition of a probable cause determination that added anything helpful or meaningful to the statutory description of this decision. Additionally, the rule definition of prima facie determination merely repeated the language of the statute. To avoid expanding or contracting the meaning of the statutory term "probable cause determination" and to avoid disapproval of the proposed rules by the Office of Administrative Hearings, staff recommended deleting the definition of a probable cause determination from the rules. To avoid repeating the statute and to be consistent with the treatment given to the probable cause determination, staff also recommended deleting the definition of prima facie determination.

Ms. Pope said that the implementation of the prima facie and probable cause requirements in the new statute had shown that some proposed rule provisions should be modified. For example, proposed part 4525.0150, subpart 2, required notice to be sent by electronic and United States mail. Staff, however, had found that the email addresses provided by registered

entities often were incorrect and had not yet implemented the use of email for any official notice. Ms. Pope reported that Chapter 10A does not provide for the use of email for any required notice. Until the use of email is incorporated into Chapter 10A as an official substitute for United States mail, staff proposed that its use continue to be through practice rather than be mandated by rule.

Ms. Pope told members that staff also proposed removing the requirement that the prima facie determination state that the respondent is not permitted to contact any Board member directly about the complaint or prima facie determination. Ms. Pope reported that this provision was intended to prevent ex parte contact with the Board member making the prima facie determination. The proposed rules, however, did not state that a respondent could not contact a Board member. Instead, the rules stated that the notice of prima facie determination must notify the respondent that the respondent may not contact Board members. Ms. Pope said that this was a case of a substantive rule being buried in a notice requirement. Ms. Pope stated that the Board had not in the past had problems with respondents contacting Board members and it seemed to staff that even suggesting that this is a possibility (though the suggestion is made in the form of a prohibition) could be counterproductive.

Ms. Pope reported that after conducting the public subsidy audit which had multiple respondents, some of whom had no negative findings, staff realized that the proposed rule provisions requiring "a respondent" to receive an entire draft audit report raised administrative and data privacy issues. Staff therefore proposed to amend part 4525.0550 to limit the information sent to each respondent in an audit to a draft of any negative or adverse findings related to that respondent.

Ms. Pope stated that the last modification was suggested by Senator Scott Newman who said that part 4525.0210, subpart 7, should require the Board to include the reasons for its decision in the order initiating the formal investigation of a complaint. Ms. Pope reported that this language had been added to part 4525.0210, subpart 7.

Ms. Pope stated that the next step was for the Board to decide what modifications to make to the proposed rules. Ms. Pope said that the current schedule called for the Board to adopt the final proposed rules at its October meeting and to send the rules to the Office of Administrative Hearings and the governor's office on October 14, 2014.

After discussion, the following motion was made:

Member Beck's motion:	To approve the modifications in the staff draft of the proposed rules.
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Vote on motion:	Unanimously approved.
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### **LEGISLATIVE RECOMMENDATIONS**

Mr. Goldsmith presented members with a memorandum on this topic and a list of potential legislative changes that are attached to and made a part of these minutes. Mr. Goldsmith

explained the list of potential legislative changes and said that these items were presented for the Board's initial consideration. Mr. Goldsmith stated that staff would refine the list after receiving direction from the Board. Members asked Mr. Goldsmith to add public official disclosure and data practices issues to the list of preliminary recommendations. Members discussed the need to move quickly to finalize the legislative recommendations so that members would be ready to meet with legislators in December to begin discussing the proposals.

### **LEGAL COUNSEL'S REPORT**

Ms. Hartshorn had nothing to add to the provided report.

### **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 Chair had the following items to report into regular session:

Probable cause determination in the complaint of Djezienski regarding Seifert (Marty) for Governor

Probable cause determination in the complaint of Djezienski regarding Johnson (Jeff) for Governor

Probable cause determination in the complaint of Timmer regarding the Minnesota Jobs Coalition

Subsequent to the close of the regular session of the meeting, the executive director publicly reported the following item:

Staff audit of 2014 Affidavit of Contributions

### **OTHER BUSINESS**

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

Respectfully submitted,



Gary Goldsmith  
Executive Director

Attachments:

Memorandum regarding data reconciliation initiatives

Memorandum regarding Board policy on contributions made and received during the legislative session

Memorandum regarding Board policy on special expenses

Draft Board policy on special expenses

Memorandum regarding rulemaking

Draft rules

Memorandum regarding legislative recommendations

List of legislative recommendations

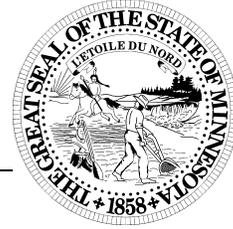
Probable cause determination in the complaint of Djezienski regarding Seifert (Marty) for Governor

Probable cause determination in the complaint of Djezienski regarding Johnson (Jeff) for Governor

Probable cause determination in the complaint of Timmer regarding the Minnesota Jobs Coalition

Staff audit of 2014 Affidavit of Contributions

# Campaign Finance and Public Disclosure Board



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

**DATE:** August 26, 2014

**TO:** Board Members

**FROM:** Jeff Sigurdson  
Assistant Director

**TELEPHONE:** 651-539-1189

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

The amount of unreconciled contributions remaining in the Board's production databases by year is shown in the table below. Note that the far left column represents the amounts of unreconciled contributions when the Board first focused on the issue in November 2013, the April 2014 column represents the progress made after about six months, and the far right column represents the most recent information.

Over the last two months staff has focused primarily on 2011 and 2013 and recently has started a review of 2010. These three years contain almost all of the records that have been reconciled between April and August of this year.

The pre-primary election Report of Receipts and Expenditures that was due on July 28, 2014, was the first report filed by candidates for the House of Representatives this year. By the Board meeting I will have additional information on the reconciliation of contributions reported so far in 2014.

<b>November 2, 2013</b>		<b>April 21, 2014</b>		<b>August 25, 2014</b>		
<b>Year</b>	<b>Not Reconciled Difference Over \$100</b>	<b>Year</b>	<b>Not Reconciled Difference Over \$100</b>	<b>Year</b>	<b>% Reconciled Of Total Transfers</b>	
2000	\$2,842,098	2000	\$2,795,078	2000	\$2,794,210	61.39%
2001	\$470,640	2001	\$373,140	2001	\$373,140	82.22%
2002	\$6,241,753	2002	\$1,856,315	2002	\$1,855,815	90.24%
2003	\$372,648	2003	\$351,598	2003	\$351,598	76.12%
2004	\$2,335,382	2004	\$2,305,950	2004	\$2,303,107	68.54%
2005	\$248,193	2005	\$185,817	2005	\$185,817	92.91%
2006	\$483,346	2006	\$416,821	2006	\$417,121	97.75%
2007	\$615,574	2007	\$512,529	2007	\$512,529	79.96%
2008	\$2,686,354	2008	\$2,675,880	2008	\$2,675,135	74.84%
2009	\$351,235	2009	\$284,354	2009	\$284,030	90.23%
2010	\$4,791,084	2010	\$496,043	2010	\$407,958	98.40%
2011	\$500,960	2011	\$374,026	2011	\$28,765	99.30%
2012	\$4,326,600	2012	\$24,573	2012	\$24,573	99.93%
<b>Total</b>	<b>\$26,265,867</b>	<b>Total</b>	<b>\$12,652,124</b>	<b>Total</b>	<b>\$12,213,798</b>	
		2013	\$417,657	2013	\$5,061	99.88%
		<b>Total</b>	<b>\$13,069,781</b>		<b>\$12,218,859</b>	<b>91.34%</b>

Minnesota

# *Campaign Finance and Public Disclosure Board*



**Date:** August 26, 2014

**To:** Board

**From:** Gary Goldsmith, Executive Director

**Telephone:** 651-539-1190

**Re:** Policy regarding acceptance of contributions during the legislative session.

Minnesota Statutes section 10A.273, provides as follows:

Subdivision 1. **Contributions during legislative session.** (a) A candidate for the legislature or for constitutional office, the candidate's principal campaign committee, or a political committee or party unit established by all or a part of the party organization within a house of the legislature, must not solicit or accept a contribution from a registered lobbyist, political committee, political fund, an association not registered with the board, or a party unit established by the party organization within a house of the legislature, during a regular session of the legislature.

(b) A registered lobbyist, political committee, political fund, an association not registered with the board, or a party unit established by the party organization within a house of the legislature, must not make a contribution to a candidate for the legislature or for constitutional office, the candidate's principal campaign committee, or a political committee or party unit established by all or a part of the party organization within a house of the legislature during a regular session of the legislature.

The prohibition on soliciting, accepting, or making contributions applies "during a regular session of the legislature." It has always been the Board's understanding that a regular session of the legislature starts on the first day of session in a calendar year. The regular session in the first year of the biennium ends when the session is adjourned until the next calendar year. In the second year of the biennium, the session ends with adjournment sine die.

No administrative rules have been adopted with regard to this provision and there are no judicial interpretations. However, at its meeting of November 22, 1996, the Board discussed the fact that the session is typically called to order at noon on the first day and may adjourn at any time on the last day. Technically, a contribution could be made or received on the date that the session starts or ends, but before the session is called to order or after adjournment for the calendar year.

The following is a transcript of the minutes of the Board meeting of November 22, 1996:

### **Fundraising during legislative session**

The Board discussed the appropriateness of principal campaign committees accepting contributions the day the legislative session begins, but before the legislature is convened.

Mr. Anderson's MOTION: To direct staff to draft a letter to be distributed to all candidates and to the political committees of the legislative caucuses notifying them that the Board will consider only the day of receipt, not the particular time of day when a contribution is received. A contribution received at any time on the first or last day of a legislative session will be considered received during the session.

Vote on MOTION: Unanimously passed.

Since the adoption of this motion, Board handbooks, training, and staff advice have informed clients that a contribution solicited, accepted, or made any time during the first or last day of a regular session is prohibited.

Staff notes that since 1996 technologies have changed significantly. Many contributions are now made and received through electronic transfers where a record of the exact time of the transaction is automatically generated. This makes it possible in some cases to know with certainty if a contribution was made or received "during" the session. Of course, there will still be many transactions for which the time that the contribution was made or received cannot be proven by documentary evidence.

Staff is concerned that there is not a sufficient statutory basis to maintain the position articulated in 1996 that the sessional fundraising prohibition starts before the time that the session is actually called to order or ends at a time later than the session adjourns for the year.

Staff requests that the Board discuss this policy and determine whether it wishes to reconsider the absolute terms of the existing approach. If it does, an approach based on a presumption may satisfy the need for guidance in administering the prohibition without interpreting it in a way that may be broader than the statutory language permits.

If the Board believes that administration of the statute would be served by extending the prohibition to the entire first and last day of each regular session, it could make a legislative recommendation to that effect.

Should the Board wish to modify its approach to this prohibition, the following motion or something similar would achieve that result:

RESOLVED,

The Executive Director is directed that when a contribution is reported as made or received on the first day or the last day of a regular session of the legislature, the Executive Director should presume that the contribution was made or received "during a regular session of the legislature." This presumption may be rebutted by evidence of the actual time that the contribution was made or received. If the contribution was made or received before the call to order of the session or after adjournment of the session for the calendar year, there is no violation of section 10A.273.

FURTHER RESOLVED,

The policy regarding sessional contributions adopted by the Board at its meeting of November 22, 1996, is hereby revoked. The Executive Director is instructed to update all relevant Board handbooks and other educational materials.

Minnesota

*Campaign Finance and  
Public Disclosure Board*



**Date:** August 26, 2014

**To:** Board

**From:** Gary Goldsmith, Executive Director

**Telephone:** 651-539-1190

**Re:** Policy regarding special expenses

Pursuant to a Minnesota Management and Budget requirement, the Board adopted a policy on special expense reimbursement in November, 2005, and revised the policy in 2009. At that time the policy applied only to expenses that were reimbursed to employees under the state contracts. It did not apply to any purchases done in the ordinary course of agency operations through the encumbrance and purchase order process, wherein vendors are paid directly for services. A special policy was required for employee reimbursements because funds for those costs are not encumbered and it is necessary to know in advance if significant obligations are going to be incurred by employees.

As a practical matter, reimbursement of special expenses was very rare in the agency as most purchases are made through the ordinary purchasing process. On a few occasions employees were reimbursed for small amounts for seminars and conferences.

MMB has now changed its policy and requires that all employee training be treated as a special expense, even when that training is not handled as a reimbursement, but is handled as a regular agency purchase. In the past, the Executive Director has approved employee training expenses through the normal purchasing processes. Thus, these expenses did not fall under the Board's special expenses reimbursement policy.

The expenses that will fall under new policy will relate primarily to costs of technical training for information technology staff. The new policy does not cover training that costs less than \$500, which includes most other staff training.

The revised policy is designed to maintain the Board's past practice in which the Executive Director is responsible for approval of staff training. It is also modified to change the definition of special expenses to be consistent with MMB's new definitions. Otherwise, it generally maintains past practice.

For your information, I am attaching the following:

**MMB Special Expenses Policy**

**CFB Current Special Expense Policy**

**Draft new CFG Special Expense Policy**

Minnesota

# *Campaign Finance and Public Disclosure Board*



## **Special Expenses Policy and Procedure**

**This policy replaces the Board's special expenses policy and procedure originally adopted November, 2005, and revised September 1, 2009, which policy and procedure is hereby revoked.**

### **Background Information**

Under the various state employee contracts and plans, provision is made for the reimbursement of "special expenses", which are not specifically defined in the plans. Minnesota Management and Budget (MMB) has enacted Administrative Procedure 4.4, which defines these special expenses. In addition to requiring specific approval protocols when special expenses are paid by employees or board members and then reimbursed, the MMB procedure also requires special approval protocols for special expenses that are incurred by an agency through its regular encumbering and purchasing processes.

### **Policy Objectives**

The purpose of this policy is to implement MMB Administrative Procedure 4.4 as it applies to the Minnesota Campaign Finance and Public Disclosure Board.

This special expense policy is will:

- Establish a clear definition of costs to be regarded as special expenses
- Provide a consistent process for review and approval of special expenses
- Promote better accountability

### **Expense types that constitute special expenses**

The types of expense items identified in this section are defined as special expenses. Expenses not defined in this section are regular expenses subject to all applicable statewide and agency purchasing policies and requirements.

The following constitute special expenses:

1. Full cost of a meal when it is a part of the structured agenda of a conference, workshop, seminar, or meeting which the appointing authority has authorized the employee to attend, excluding routine staff meetings.
2. Registration and tuition fees for conferences, seminars, workshops, or education courses.

3. Refreshments for Board sponsored meetings, conferences or workshops where the majority of participants are not state employees.
4. Refreshments, meals and other conference costs for Board sponsored events where registration fees are charged and the majority of the participants are not state employees.
5. Refreshments and/or meals during official meetings of the Board, its task forces, advisory committees, subcommittees
6. Lodging for an employee who is not in travel status if:
  - a. weather conditions or other unforeseen occurrences prevent the employee from returning home; or
  - b. the appointing authority authorizes overnight participation in an approved event.
7. Expense reimbursement for lodging, travel and meals for one attendant for an employee with a disability who requires daily assistance in performing various personal tasks or who has special mobility needs.
8. Expenses as follows for individual employee awards and agency recognition/appreciation events:
  - a. awards for individual or group achievements which are limited to non-cash/non- negotiable items of nominal value (not taxable wages or benefits) under IRS guidelines.
  - b. reasonable costs for annual official agency/institution employee recognition events which may include up to 100% meal reimbursement for employees being recognized but shall not include reimbursement for other guests and travel.
  - c. reasonable costs for staff recognition/appreciation events, including employee retirement events, where refreshments are provided.
9. Expenses for international travel authorized by the appointing authority.
10. Employee recognition events beyond those listed in A 10 above.
11. Other special expenses not identified in this policy. procedure.

**Limitations, restrictions, and thresholds for special expenses.**

1. A special expense request and approval for registration and tuition fees for conferences, seminars, workshops, or education courses is required only for expenses of more than \$500 per person.
2. Except in emergency situations, special expense requests must be approved before any expenses are incurred.

3. Special expenses included in MMB Administrative Procedure 4.4 but not listed in the above special expenses definition are not available for use by the Board.
4. Where a special expense may include the cost of meals at a meeting, meetings must be scheduled to minimize the inclusion of meals.
5. All special expenses must be limited to costs that are reasonable under the circumstances.
6. Unless otherwise authorized by MMB, costs for international travel are limited to the out-of-state travel reimbursement amounts permitted by the applicable collective bargaining agreement or plan.
7. Special expenses may not be used to pay for:
  - private club memberships,
  - alcoholic beverages,
  - entertainment,
  - employee parties, or
  - refreshments or meals for meetings consisting of a majority of state employees.

### **Requests for approval of special expenses**

#### **Employee reimbursement requests**

An employee requesting reimbursement for a special expense must complete a special expenses reimbursement request using MMB form MMB-00668 or a form provided by the Board including substantially the same information.

#### **Agency direct purchases**

If a special expense is requested by the appointing authority and encumbered and paid through the usual state and agency purchasing policies and procedures, the request for special expense may be included with the purchase order or other encumbrance request. Signature of the appointing authority on the purchase order or encumbrance request constitutes the request for the special expense as well as approval of the expense.

### **Approval of special expenses**

#### **Approval by MMB**

Special expenses defined in paragraphs 9, 10, and 11 require the approval of MMB.

#### **Approval by agency**

The Executive Director is authorized to approve special expense requests for employees and Board members, excluding requests for the Executive Director's own special expenses.

The Assistant Executive Director is authorized to approve special expense requests up to \$1,000 for requests made by the Executive Director or requests made by other staff or Board members in the absence of the Executive Director. The Assistant Executive Director may not approve his or her own special expense request.

The Board Chair is authorized to approve special expense requests for expenses of the Executive Director in excess of \$1,000.

The Board Chair is authorized to act on behalf of the Board in cases where the Board is the appointing authority and approval or authorization of the appointing authority is required under these special expense policies and procedures. In the absence or unavailability of the Board Chair, the Vice Chair is authorized to act on behalf of the Chair.

The preceding provisions notwithstanding, the Executive Director may approve special expenses for staff, including the Executive Director to attend a Heartland Regulators regional conference and for up to three staff or Board members, including the Executive Director, to attend the annual conference of the Council of Government Ethics Regulators.

### **Procedures**

Except as provided otherwise herein, or in other situations where prior approval is not possible, all special expenditures must have approval signed in advance of the time the expense is incurred. Requests received after the fact or too late to receive prior approval must include an explanation as to why the request was not submitted in a timely manner.

After the approved special expenses have been incurred, the employee expense report will be reviewed for compliance with Board, state, and employee bargaining unit agreement or plan. Once approved by the Executive Director, or designee, the employee expense report and a copy of the Request for Approval to Incur Special Expenses will be submitted to the SmART team of the Department of Administration's Financial Management and Reporting unit for final review and payment.

The Financial Management and Reporting review is to provide an additional control measure and is not required for approval of the special expenses. Financial Management and Reporting will advise the Board in the event that any special expenses request is not consistent with applicable state policies or procedures.

This policy and procedure adopted by vote of the Campaign Finance and Public Disclosure Board at a regularly scheduled meeting on September 2, 2014.

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Deanna Wiener, Chair

Minnesota

# *Campaign Finance and Public Disclosure Board*

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**Date:** August 26, 2014

**To:** Board members

**From:** Jodi Pope, Legal/Management Analyst

**Telephone:** 651-539-1183

**Re:** Suggested changes to proposed expedited rules

Although the comment period is not yet over, one person and the Office of the Revisor of Statutes already have suggested modifications to the proposed expedited rules. It is possible that additional comments will be made before the comment period ends on August 27, 2014. In addition, at the August Board meeting, committee members asked staff to revisit the rule provisions making staff reviews public. This request was based, in part, on feedback from the regulated community. Finally, implementing the new audit and complaint procedures in the statute, along with further review of the proposed rules, has led staff to suggest some modifications to the proposed rules.

The suggested modifications fall into the following categories.

1. **Modifications to make staff reviews confidential.** Under the rules as proposed, the executive director would have the authority to conduct a staff review of a potential violation that was disclosed on a report filed with the Board. The Board also could direct the executive director to conduct a staff review in other matters. Because the proposed rules do not classify these staff reviews as investigations, they would be public under the data practices provisions currently applicable to the Board.

The proposed modifications would make a staff review a form of investigation. Staff reviews therefore would be confidential proceedings under current data practices laws. This would also eliminate the possibility that a staff review could be converted to a confidential proceeding after starting out in a public setting.

If the Board agrees with the suggested modifications, the executive director still would have the authority to conduct staff reviews of potential violations disclosed on reports filed with the Board and the Board still would have the authority to order staff reviews into other matters.

Several modifications were necessary to implement this change. The most significant changes are 1) specifying that summary proceedings are available only for matters that are the subject of complaints, investigations, and audits; 2) specifying that staff reviews are a form of summary proceeding; 3) specifying that the executive director can begin a staff review only after a preliminary inquiry into a filed report suggests that a violation has occurred (this change allows staff to informally contact committees to determine whether there has been a mistake on a report that can be resolved by amendment or a violation that requires a staff review); 4) specifying that Board consideration of matters under staff review and the conciliation agreements that resolve them must occur in closed meetings; 5) removing a reference to

resolving staff reviews by amendment (if a matter is resolved by amendment during a preliminary inquiry, there would be no violation to review); and 6) removing the provisions giving the respondent any choice in whether a matter will be subject to staff review because staff reviews and formal investigations will both be forms of investigations that are confidential.

Here is a complete list of the modifications required under this category: 4525.0100, subpart 8 (scope); 4525.0150, subparts 1 (scope) and 5 (scope); 4525.0210, subparts 7 (remedied is factor) and 8 (no option of staff review and remedied is factor); 4525.0220, subpart 1 (definition); 4525.0320, subparts 2 (preliminary inquiry); 3 (amendments); 4 (add conciliation before agreement); 4525.0330 (closed meeting requirement, add conciliation before agreement); 4525.0340, subparts 1 (add conciliation before agreement, remove public/private meeting distinction) and 2 (remedied is factor); and 4525.0500, subpart 5 (scope).

**2. Revisor of Statute suggestions.** Although the Board was able to incorporate one small change suggested by the Office of the Revisor of Statutes, the majority of the Revisor's modifications were made too late in the process to incorporate them into the proposed expedited rules as published. The first suggestion concerns the proposed language in part 4525.0200, subpart 4, requiring evidence to be given under oath. The Revisor pointed out that testimony, not evidence, typically is given under oath. The suggested modification retains the word "testimony" but uses the word "evidentiary" as a modifier for this term.

The Revisor also said that part 4525.0210, subpart 7, directing the executive director to send notice of the Board's probable cause determination had no triggering event for the sending of this notice. The triggering event for sending the notice arguably is in the first paragraphs of this subpart. But the language in subpart 7 is different from the language in subparts 6 and 8 requiring notice to be sent of the Board's decision that a complaint lacks of probable cause or does not warrant investigation. The proposed modification changes the language in subpart 7 so that it is similar to the language used for this requirement in subparts 6 and 8.

The Revisor also noted that the use of the word "sufficient" in the definitions of prima facie determination and probable cause determination might not be specific enough to be approved in a rule. It has been very difficult to craft a definition of a probable cause determination that adds anything helpful or meaningful to the statutory description of this decision. Additionally, the rule definition of prima facie determination merely repeats the language of the statute. To avoid expanding or contracting the meaning of the statutory term "probable cause determination" and to avoid disapproval of the proposed rules by the Office of Administrative Hearings, staff recommends deleting the definition of a probable cause determination from the rules. To avoid repeating the statute and to be consistent with the treatment given to the probable cause determination, staff also recommends deleting the definition of prima facie determination.

Here is a complete list of the modifications required under this category: 4525.0200, subpart 4 (oath); 4525.0210, subparts 1 (prima facie), 5 (probable cause), and 7 (notice of determination); renumbering 4525.0210 and changing internal citations.

**3. Modifications suggested by recent experience implementing the new statutory provisions and the concept of a staff review in the proposed rules.** The implementation of the prima facie and probable cause requirements in the new statute shows that some proposed rule provisions should be modified. For example, using the word "determination" to refer to the document produced after a prima facie determination and the word "order" to refer to the document produced after a probable cause decision will help the public to differentiate between these two decisions.

Proposed part 4525.0150, subpart 2, requires notice to be sent by electronic and United States mail. Staff has found that the email addresses provided by registered entities often are incorrect and has not yet implemented the use of email for any official notice. Chapter 10A does not provide for the use of email for any required notice. Until the use of email is incorporated into Chapter 10A as an official substitute for United States mail, staff proposes that its use continue to be through practice rather than be mandated by rule.

Proposed part 4525.0210, subpart 2, now provides that the notice of the prima facie determination must state that the respondent is not permitted to contact any Board member directly about the complaint or prima facie determination. This provision is intended to prevent ex parte contact with the Board member making the prima facie determination. However, the proposed rules do not state that a respondent may not contact a Board member. Instead, the rules state that the notice of prima facie determination must notify the respondent that the respondent may not contact Board members. This is a case of a substantive rule being buried in a notice requirement. The Board has not in the past had problems with respondents contacting Board members and it seems to staff that even suggesting that this is a possibility (though the suggestion is made in the form of a prohibition) may be counterproductive. For these reasons, staff proposes to remove this requirement from the proposed rules.

After conducting the public subsidy audit which had multiple respondents, some of whom had no negative findings, staff realized that the proposed rule provisions requiring “a respondent” to receive an entire draft audit report raised administrative and data privacy issues. Staff therefore proposes to amend part 4525.0550 to limit the information sent to each respondent in an audit to a draft of any negative or adverse findings related to that respondent.

Finally, in reviewing proposed part 4525.0340, staff realized that additional language was needed to clarify that this part also applies to Board-initiated investigations; that dividing subpart 1 into two subparts would improve readability; and that item D could be amended to more clearly state the Board’s intent.

Here is a complete list of the modification required under this category: 4525.0150, subpart 2 (electronic mail); 4525.0210, subparts 2 (no contact with Board members in notice); 3 (order/determination) and 4 (order/determination); 4525.0340 (changes for clarity), and 4525.0550, subpart 2 (draft audit findings).

**4. Modifications suggested by Senator Newman.** Senator Newman suggested that part 4525.0210, subpart 7, require the Board to include the reasons for its decision in the order initiating the formal investigation of a complaint. This language has been added to part 4525.0210, subpart 7.

Attachment: [Rules draft](#)

## Minnesota Campaign Finance and Public Disclosure Board Proposed Expedited Rules Governing Audits and Investigations

### 4525.0100 DEFINITIONS.

[For text of subpart 1, see M.R.]

Subp. 2a. **Complaint.** "Complaint" means a written statement, including any attachments, that:

A. alleges that the subject named in the complaint has violated Chapter 10A or another law under the board's jurisdiction, and

B. complies with the requirements in part 4525.0200, subpart 2.

Subp. 3a. **Complainant.** "Complainant" means the filer of a complaint.

Subp. 3. **Contested case.** "Contested case" means a proceeding conducted under Minnesota Statutes chapter 14 in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a board hearing. "Contested case" includes a proceeding pursuant to a request for exemption from campaign reporting requirements under Minnesota Statutes, section 10A.20, subdivisions 8 and 10; a hearing ordered by the board under part 4525.0900, subpart 2 concerning a complaint, investigation, or audit; and any other hearing which may be ordered by the board under parts 4525.0100 to 4525.1000 or which may be required by law.

"Contested case" does not include a board investigation or audit conducted under Minnesota Statutes, section 10A.02, subdivisions 9 and 10.

Subp. 5. {See repealer.}

Subp. 6. {See repealer.}

Subp. 8. **Respondent.** "Respondent" means the subject of a complaint, ~~a formal~~ an investigation, ~~a formal or an~~ audit, ~~or a staff review or another form of summary proceeding.~~

### 4525.0150 GENERAL PROVISIONS

Subp 1. **Scope.** This part applies to all complaints, ~~formal~~ investigations, ~~formal and audits, or staff reviews or other forms of summary proceedings~~ conducted under this chapter and Minnesota Statutes, chapter 10A.

Subp.2. **Notice, where sent.** Whenever notice is required, if a respondent is registered with the board, ~~notices~~ notice must be sent by ~~electronic and~~ United States mail to the most recent ~~addresses~~ address that the respondent provided in a registration statement filed with the board.

Subp. 3 **Opportunity to be heard.** When a provision in this chapter or Minnesota Statutes 10A provides that a complainant or a respondent has an opportunity to be heard by the board, the complainant or respondent must be given an opportunity to appear in person at a board meeting before the board makes a determination on the matter. The complainant or respondent is not required to appear before the board.

A complainant or respondent who has an opportunity to be heard may submit a written statement to the board in addition to or in lieu of an appearance before the board. A written statement under this part must be submitted at least ten business days before the board meeting at which the matter will be heard. The executive director must provide any submitted statement to the board before the board makes a determination on the matter.

The opportunity to be heard does not include the right to call witnesses or to question opposing parties, board members, or board staff.

The board may set a time limit for statements to the board when necessary for the efficient operation of the meeting.

When notice of the opportunity to be heard has been sent as required in subpart 2, the failure to appear in person or in writing at the noticed meeting constitutes a waiver of the opportunity to be heard at that meeting.

Subp. 4. **Continuance.** The board may continue a matter to its next meeting if

- A. the parties agree;
- B. the investigation is not complete;
- C. the respondent shows good cause for the continuance; or
- D. the delay is necessary to equitably resolve the matter.

Subp. 5. **Authority reserved to board.** The provisions of this chapter do not affect the board's authority under Minnesota Statutes section 10A.02, subdivision 10, to order ~~a formal~~ an investigation or ~~formal~~ audit in any matter or to direct the executive director to initiate a staff review or another form of summary proceeding of any matter.

#### **4525.0200 COMPLAINTS OF VIOLATIONS.**

Subpart 1. **Who may complain.** A person who believes a violation of Minnesota Statutes, chapter 10A, or another provision of law placed under the board's jurisdiction by Minnesota Statutes, section 10A.02, subdivision 11, or rules of the board has occurred may submit a written complaint to the board.

Subp. 2. **Form.** Complaints must be submitted in writing. The name and address of the complainant must be included on the complaint and it must be signed by the complainant or an individual authorized to act on behalf of the complainant. A complainant shall list the alleged violator and the alleged violator's address if known by the complainant and describe the complainant's knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints are not available for public inspection or copying until after the board makes a finding.

Subp. 4. **Oath.** ~~Evidence~~ Evidentiary testimony given in a meeting conducted by the board under this chapter must be under oath. Arguments made to the board that do not themselves constitute evidence are not required to be under oath.

[For text of subparts 5 and 6, see M.R.]

## 4525.0210 DETERMINATIONS PRIOR TO FORMAL INVESTIGATION

~~Subp. 1. **Prima facie violation determination.** A prima facie determination is a determination that a complaint is sufficient to allege a violation of Chapter 10A or another provision of law placed under the Board's jurisdiction by section 10A.02, subdivision 11.~~

~~Subp. 2. **Preparation for prima facie determination.** After a complaint is filed, the executive director must follow the notice provisions in Minnesota Statutes section 10A.02, subdivision 11, with regard to the respondent's right to submit written arguments addressing the prima facie determination. The notice must provide that the respondent is not permitted to contact any board member directly regarding the complaint or the prima facie determination.~~

Upon the expiration of the time provided for the respondent to submit written argument, the executive director must submit the matter to the board member who will make the determination or to all board members if the full board will make the determination. The submission must include the complaint, any response submitted by the respondent, and an analysis of the allegations of the complaint and the violations that it alleges.

~~Subp. 3~~ Subp. 2. **Making the prima facie determination.** In determining whether a complaint states a prima facie violation, any evidence outside the complaint and its attachments may not be considered. Arguments of the respondent, which are not themselves evidence, must be considered.

If a finding is made that a complaint does not state a prima facie violation, the complaint must be dismissed without prejudice. The dismissal must be ordered by the board member making the determination or by the full board if the full board makes the determination. The ~~order~~ determination must be in writing and must indicate why the complaint does not state a prima facie violation.

If a finding is made that a complaint states a prima facie violation, the board chair must schedule the complaint for a probable cause determination.

~~Subp. 4~~ Subp. 3. **Action after prima facie violation determination.** The executive director must promptly notify the complainant and the respondent of the prima facie determination. The notice must include a copy of the ~~order making the~~ prima facie determination.

If a determination is made that a complaint states a prima facie violation, the notice also must include the date of the meeting at which the board will make a probable cause determination regarding the complaint and a statement that the complainant and the respondent have the opportunity to be heard before the board makes the probable cause determination.

~~Subp. 5. **Probable cause determination.** In determining whether probable cause exists, the board must consider the allegations of the complaint and the information and arguments in any statement submitted by the complainant or respondent. The board must also consider any inferences that could be drawn about the matter by a reasonable person.~~

~~To find probable cause to believe that a violation has occurred, the board must conclude that the complaint presents a sufficient basis to order a formal investigation or a staff review.~~

~~Subp. 6~~ **Subp. 4. Action after probable cause not found.** If the board finds that probable cause does not exist to believe that a violation has occurred, the board must order that the complaint be dismissed without prejudice. The order must be in writing and must indicate why probable cause does not exist to believe that a violation has occurred.

The executive director must promptly notify the complainant and the respondent of the board's determination. The notice must include a copy of the order dismissing the complaint for lack of probable cause.

~~Subp. 7~~ **Subp. 5. Action after probable cause found.** If the board finds that probable cause exists to believe that a violation has occurred, the board then must determine whether the alleged violation warrants a formal investigation.

When making this determination, the board must consider the type of possible violation; the magnitude of the violation if it is a financial violation; the extent of knowledge or intent of the violator; the benefit of formal findings, conclusions, and orders compared to informal resolution of the matter; the availability of board resources; whether the violation has been remedied, and any other similar factor necessary to decide whether the alleged violation warrants a formal investigation.

If the board orders a formal investigation, the order must be in writing and must describe the basis for the board's determination, the possible violations to be investigated, the scope of the investigation, and the discovery methods available for use by the board in the investigation.

The executive director must promptly notify the complainant and the respondent of the board's determination ~~that the board has found that probable cause exists to believe that a violation has occurred, that the board has determined that the alleged violation warrants a formal investigation, and that the board has ordered a formal investigation into the matter.~~

The notice to the respondent also must:

- A. include a copy of the probable cause order;
- B. explain how the investigation is expected to proceed and what discovery methods are expected to be used;
- C. explain the respondent's rights at each stage of the investigation, including the right to provide a written response and the right to counsel, and
- D. state that the respondent will be given an opportunity to be heard by the board prior to the board's determination as to whether any violation occurred.

~~Subp. 8~~ **Subp. 6. Action if formal investigation not ordered.** If the board finds that probable cause exists to believe that a violation has occurred, but does not order a formal investigation under subpart 7 5, the board must either dismiss the matter without prejudice or order ~~offer~~ the respondent the option of resolving the matter through a staff review under part 4525.0320. ~~If the board offers the respondent the option of resolving the matter through a staff review and that offer is not accepted, the board must order a formal investigation.~~

In making the determination of whether to dismiss the complaint or offer resolution through order a staff review, the board must consider the type of possible violation, the magnitude of the

violation if it is a financial violation, the extent of knowledge or intent of the violator, the availability of board resources, whether the violation has been remedied, and any other similar factor necessary to decide whether to proceed with a staff review.

An order dismissing a matter must be in writing and must indicate why the matter was dismissed.

The executive director must promptly notify the complainant and the respondent of the board's determination. The notice must include a copy of the order.

#### **4525.0220 SUMMARY PROCEEDINGS**

Subp. 1. **Summary Proceeding.** A summary proceeding is an action other than a complete formal investigation that is undertaken to resolve a matter, or a part of a matter, that is the subject of a complaint, an investigation, or an audit. A staff review under part 4525.0320 is one form of summary proceeding.

Subp. 2. **Request by respondent.** At any time, a respondent may request that a matter or a part of a matter be resolved using a summary proceeding. The request must be in writing and must:

- A. specify the issues the respondent is seeking to resolve through the summary proceeding,
- B. explain why those issues are suitable for the summary proceeding, and
- C. explain how the proposed summary proceeding would be undertaken.

Subp. 3. **Consideration of request by board.** Upon receipt of a request for a summary proceeding, the executive director must submit the request to the board. The request must be considered by the board at its next meeting that occurs at least ten days after the request was received.

The board is not required to agree to a request for a summary proceeding. If the board modifies the respondent's request for a summary proceeding, the board must obtain the respondent's agreement to the modifications before undertaking the summary proceeding.

#### **4525.0320 – STAFF REVIEW**

Subp. 1. **Staff review.** In a staff review, the executive director reviews information and works informally with a respondent to determine whether a violation has occurred and to determine how any identified violation should be resolved.

Subp. 2. **Staff review required.** The executive director must initiate a staff review into a matter when directed to do so by the board.

Unless otherwise directed by the Board, the executive director must also initiate a staff review when a preliminary inquiry into the information provided on a report filed with the board suggests that there has been a violation of chapters 4501 to 4525, Minnesota Statutes, chapter 10A, or another law placed under the board's jurisdiction pursuant to section 10A.02, subdivision 11.

Subp. 3. ~~Resolution of matter under staff review by amendment.~~ If a matter under staff review is resolved by the respondent amending a report, the matter under staff review must be closed by the executive director. The executive director must prepare a brief summary of the matter and file the summary with the board's records related to the respondent.

Subp. 4. **Resolution of matter under staff review by conciliation agreement.** Subject to board approval under part 4525.0330, a respondent may agree to resolve a matter under staff review by entering into a conciliation agreement. The agreement must describe any actions that the respondent has agreed to take to remedy the violation or to prevent similar violations in the future. The agreement must also include the amount of any civil penalty that the respondent has agreed to pay and any other provisions to which the respondent has agreed.

#### **4525.0330 SUBMISSION TO BOARD: MATTER UNDER STAFF REVIEW RESOLVED BY CONCILIATION AGREEMENT.**

~~Every~~ A matter under staff review that is resolved by conciliation agreement under part 4525.0320 must be presented to the board for approval at a public meeting closed to the public under part 4525.0200, subpart 5 as part of the board's consent agenda or as a separate item on the regular agenda. ~~Upon the request of one board member, any agreement resolving a matter under staff review must be moved from the consent agenda to the regular agenda.~~

The respondent must be given an opportunity to be heard by the board prior to the board's decision regarding the agreement.

The executive director must send notice of the meeting to the respondent. The notice must be sent not later than the time that the agreement is provided to the board and must include a copy of the agreement. The notice must include the date of the meeting at which the board will consider the matter and a statement that the respondent has the opportunity to be heard by the board before the board's determination regarding the agreement.

~~An~~ A conciliation agreement made under part 4525.0320 to resolve a matter under staff review is final only after the board approves the agreement.

If the board does not approve ~~an~~ a conciliation agreement to resolve a matter under staff review, the board must lay the matter over until its next meeting and:

- A. provide guidance and direct the executive director to continue the staff review, or
- B. direct the executive director to prepare the matter for resolution by the board without an agreement pursuant to part 4525.0340.

If an agreement proposed under this subpart is not approved by the board, any admissions by the respondent and any remedial steps taken or agreed to by the respondent are not evidence of a violation in any subsequent proceeding.

**4525.0340 SUBMISSION TO BOARD; BOARD-INITIATED INVESTIGATIONS AND MATTERS NOT RESOLVED BY CONCILIATION AGREEMENT.**

Subp. 1. **Submission to board.** The executive director must submit the following matters to the board for decision under this part:

A. If a matter under staff review that is not resolved by conciliation agreement under parts 4525.0320 and 4525.0330, the executive director must submit the matter to the board under this part; and

B. Any other matter that the board is to consider for the authorization of a formal investigation, other than a matter arising from a filed complaint, must be submitted to the board under this part.

~~The submission must be in writing, must describe the potential violation involved, and must include any supporting information. The submission must explain the actions undertaken in any summary proceedings and any points of disagreement preventing resolution of the matter. If the submission includes a recommendation for a formal investigation of the matter, the submission must be made at a meeting closed to the public. In all other cases, the submission must be made at a public meeting.~~

The respondent must be given an opportunity to be heard by the board prior to the board's decision regarding the submission.

The executive director must send notice of the submission to the respondent. The notice must be sent not later than the time that the submission is provided to the board and must include a copy of the submission. The notice must include the date of the meeting at which the board will consider the matter, and a statement that the respondent has the opportunity to be heard by the board before the board's determination regarding the submission.

Subp. 2 **Board action on submission.** When it receives a submission under this part, the board must take one of the following actions:

- A. provide guidance and direct the executive director to begin or to continue the a staff review,
- B. dismiss the matter without prejudice,
- C. order a formal investigation of the matter, or
- D. issue findings, conclusions, and an order resolving the matter the respondent to take the actions required to remedy the subject violation and impose a civil penalty if provided for by statute.

The board must consider the evidence in the executive director's submission and the information and arguments in any statement submitted by the respondent.

In making its determination, the board must consider the type of possible violation; the magnitude of the violation if it is a financial violation; the extent of knowledge or intent of the violator; the benefit of formal findings, conclusions, and orders compared to informal resolution of the matter; the availability of board resources; whether the violation has been remedied, and

any other similar factor necessary to decide whether the matter under review warrants a formal investigation.

Unless the board directs the executive director to continue ~~the~~ an existing staff review, the board's determination must be made in writing. The executive director must promptly notify the respondent of the board's determination.

~~Subp. 2~~ Subp. 3. **Formal investigation ordered.** An order for a formal investigation must describe the alleged violations to be investigated, the scope of the investigation, and the discovery methods available for use by the board in the investigation.

When the board orders a formal investigation, the executive director must promptly notify the respondent that the board has ordered a formal investigation into the matter.

The notice to the respondent must:

- A. include a copy of the order initiating the investigation;
- B. explain how the investigation is expected to proceed and what discovery methods are expected to be used;
- C. explain the respondent's rights at each stage of the investigation, including the right to provide a written response and the right to counsel, and
- D. state that the respondent will be given an opportunity to be heard by the board prior to the board's determination as to whether any violation occurred.

#### **4525.0500 INVESTIGATIONS AND AUDITS; GENERAL PROVISIONS.**

Subpart 1. **No complaint.** The board may undertake investigations or audits with respect to statements and reports which are filed or should have been filed under Minnesota Statutes, chapter 10A, although no complaint has been filed. Any decision as to whether an investigation should be undertaken must be made at a closed meeting of the board.

Subp. 2. {See repealer.}

[For text of subpart 3, see M.R.]

Subp. 5. **Board meetings.** Board meetings related to an investigation or audit must be conducted in accordance with part 4525.0200, subparts 4 and 5. At every board meeting, the executive director must report on the status of each active ~~formal~~ investigation and ~~formal~~ audit.

Subp. 6. **Subpoenas.** The board may issue subpoenas when necessary to advance an investigation or audit. The board may not issue a subpoena for the production of documents or witness testimony until a respondent has had at least 14 days to respond to a written request for the documents or testimony. When deciding whether to issue a subpoena, the board must consider the level of staff resources in taking witness testimony and conducting discovery.

Subp. 7. **Respondent submission.** In any investigation, audit, or staff review or other summary proceeding, the respondent may supply additional information not requested by the

board, including sworn testimony. The executive director must provide the information submitted by the respondent to the board in advance of the meeting at which the board will consider the matter.

#### **4525.0550 FORMAL AUDITS**

Subp. 1. **Formal audit.** The purpose of a formal audit is to ensure that all information included in the report or statement being audited is accurately reported. The fact that the board is conducting a formal audit does not imply that the subject of the audit has violated any law.

Subp. 2. **Respondent's rights.** The executive director must send to each respondent a draft audit report to the of any negative or adverse findings related to that respondent before the board considers adoption of the final audit report. The respondent has the right to respond in writing to the draft findings in the draft audit report. The respondent must be given an opportunity to be heard by the board prior to the board's decision regarding the draft audit report.

Subp. 3. **Final audit report.** At the conclusion of a formal audit, the board must issue a final audit report. The final report must identify the subject of the audit and must include the following:

- A. the name of the primary board employee responsible for conducting the audit,
- B. a description of the scope of the audit,
- C. any findings resulting from the audit,
- D. a description of any responses to the findings that the subject of the audit provides,
- E. a description of the manner in which any findings were resolved.

The final audit report may not include any information that is classified as confidential under Minnesota Statutes, chapter 10A.

**REPEALER.** Minnesota Rules, part 4525.0100, subparts 5 and 6, and part 4525.0500, subpart 2, are repealed.

Minnesota

*Campaign Finance and  
Public Disclosure Board*



**Date:** August 26, 2014

**To:** Board

**From:** Gary Goldsmith, Executive Director

**Telephone:** 651-539-1190

**Re:** Legislative recommendations

Attached is a list of possible topics for legislative recommendations in to the 2015 legislature.

At the September 3 meeting, I will briefly review the list with the Board. Members may notify me at any time if they want an item added for consideration.

Here is the anticipated route the recommendations will take:

September meeting: Brief review of possible topics for recommendations.

Between September and October meeting: Members should notify staff of any additional topics you wish to consider.

October meeting: Staff will have more fully annotated list and will discuss the advisability of proceeding with each of the various possible recommendations. The Board will decide which recommendations to more fully develop.

November meeting: Staff will present fully developed recommendations. Typically this will mean that draft language for statutory changes will be developed. The Board will decide which recommendations to adopt and which to defer or abandon.

December meeting: Staff will present the final version of the materials that will constitute the legislative recommendations. The Board will have final approval at that time.

Please contact me any time during the process to discuss recommendations, make suggestions, or add topics.

**Attachment:** Rules topics list

## 2015 legislative recommendation topics for consideration

### Technical / Policy

1. Eliminate filing of second election year report for candidates whose name will not be on the primary election ballot (who did not file for office).
2. Increase late filing fee and eliminate grace period for economic interest statement filings. This change may have a disproportionate effect on "local" officials such as soil and water conservation district supervisors and county commissioners.
3. Increase late filing fee and eliminate grace period for other filings that remain at the \$5 per day late filing fee.
4. Deal with use of state resources for constituent services that are reported partly as campaign expenditures. Use by candidate of session wrap-up designed by legislative staff at state expense after adjournment in an election year.
5. Move 10A.09, subd 10 (confidentiality of audit information) to 10A.02 (Revisor and staff recommendation.)
6. Modify prima facie determination for investigations.
7. Fix problem with judicial candidate contribution limits. It is not possible to know what seat an appellate court candidate may run for, so it is not possible to know if the election cycle limit or the non-election cycle limit should apply. A fixed limit for each 2-year segment would resolve the problem.
8. Remove language of 10A.20 giving party units approval of electronic filing standard and also provision that all party unit reports will be held until they are all filed.
9. Eliminate prohibition on contributions between the caucus committees and their candidates during the legislative session.
10. Sessional fundraising – prohibit on day session starts and day session ends
11. Deal with reporting of State Party Unit transfers to their federal committees and vice versa.
12. Deal with how party units that have both federal and state accounts report use of federal money for activities that influence state election efforts.
13. Review and recommend any changes that may be needed to maintain constitutionality of Chapter 211B "prepared and paid for" disclaimer provisions.
14. Establish penalty provisions for violations where no penalty exists. (211B disclaimer, acceptance of corporate contributions, possibly others.)
15. Extend right to make unlimited charitable contributions upon termination to political committees or funds. Now only available to candidate committees.

16. Clarify reporting statutes to make it clear that if the registration threshold has been met before the end of a reporting period, both registration and reporting are required by the report due date.
17. Clarify the statutory provisions related to release from public subsidy agreement based on opponent's conduct. The intent would be to make the language clear without changing what we believe to be the present intent and effect.
18. Possibly revisit electioneering communication disclosure, underlying source disclosure, and definition of independent expenditure. To have a chance of passage, a new scope or approach will likely be necessary.
19. Repeal Minnesota Rules 4503.1500, subpart 2. "The unpaid year-end balance of all loans from a political committee, political fund, party unit, individual, or candidate to a principal campaign committee for a legislative or constitutional office may not exceed the applicable yearly contribution limit for the entity that made the loan."

### **Investigation process**

20. Modify prima facie determination process for investigations.
21. Review language related to probable cause determination.
22. Require that subjects of an investigation preserve evidence once notified of a Board investigation.

### ***Seaton v. Wiener***

23. Address constitutionality of large giver component of special source limit. May wish to also consider lobbyist component, lobbyist limits, lobbyist spousal contributions.

### **Financial**

24. Deal with public subsidy for the case of a vacancy in the nomination. Need to review language enacted in 2013 regarding vacancy in nomination.
25. OAH funding for Chapter 211B violations by Chapter 10A candidates.
26. Public subsidy general account funding. Previously 1,500,000, now 1,020,000. May want to recommend increase to maintain high levels of participation in public subsidy program and to provide a solution for #17 above.

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

**PROBABLE CAUSE DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF TIMOTHY DJEZIENSKI REGARDING THE SEIFERT (MARTY) FOR GOVERNOR COMMITTEE:

This complaint alleges that the Seifert for Governor Committee failed to properly disclose payments made to campaign staff because its May 2014 Report of Receipts and Expenditures did not disclose the names and addresses of individuals who had been paid to work for the campaign.

Minnesota Statutes section 10A.20, subdivision 3, requires that payments in excess of \$200 in aggregate to a provider of services be itemized on a report of receipts and expenditures. The itemization must include the name and address of the provider of the services.

On its 2014 May Report of Receipts and Expenditures, the Seifert for Governor Committee reported a number of expenditures made for the purpose of "Employee Expense: Payroll" as being made to vendor "Intuit." The expenditures should have been reported as payments to each individual employee of the committee because the provider of the services in this instance was the employee of the committee, not the payroll vendor "Intuit."

On July 20, 2014, the Seifert for Governor Committee amended their 2014 May Report of Receipts and Expenditures to report all "Employee Expense: Net Pay" expenditures as being made directly to the employees. Each payment was itemized by individual and included the individual's address.

**Findings:**

1. The Seifert for Governor Committee reported employee salary expenditures as being made to an entity other than the employee providing the services on its May 2014 Report of Receipts and Expenditures.
2. The Seifert for Governor Committee's amended 2014 May Report of Receipts and Expenditures listed employee salary expenditures as being made directly to employees of the committee.
3. There was no allegation, and there is no evidence, that the omission of employee names and addresses from the original report was done with the intent to avoid disclosure.

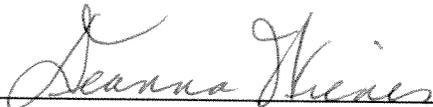
**Conclusions:**

1. Probable cause exists to believe that the Seifert for Governor Committee violated section 10A.20, subdivision 3, of the Minnesota Statutes.
2. The Seifert for Governor Committee has remedied the reporting error contained in its original 2014 May Report of Receipts and Expenditures by properly itemizing employee salary expenditures on its amended 2014 May Report of Receipts and Expenditures.

3. No penalty is provided for by statute when a reporting error has been corrected by the submission of an amendment.
4. Because the reporting error has been corrected and because no further penalty is provided for by statute, the Board concludes that it should commit no further resources to investigating this matter.

**Order:**

1. The complaint in the above matter is dismissed.

  
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Deanna Wiener, Chair  
Campaign Finance and Public Disclosure Board

Dated: 9-2-14, 2014

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

**PROBABLE CAUSE DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF TIMOTHY DJEZIENSKI REGARDING THE JOHNSON (JEFF) FOR GOVERNOR COMMITTEE:

This complaint alleges that the Johnson for Governor Committee failed to properly disclose payments made to campaign staff because its May 2014 Report of Receipts and Expenditures did not disclose the names and addresses of individuals who had been paid to work for the campaign.

Minnesota Statutes section 10A.20, subdivision 3, requires that payments in excess of \$200 in aggregate to a provider of services be itemized on a report of receipts and expenditures. The itemization must include the name and address of the provider of the services.

On its 2014 May Report of Receipts and Expenditures, the Johnson for Governor Committee reported a number of expenditures made for the purpose of "Employee Expense: Salary" as being made to vendor "Paychex." The expenditures should have been reported as payments to each individual employee of the committee because the provider of the services in this instance was the employee of the committee, not the payroll vendor "Paychex."

The 2014 pre-primary-election Report of Receipts and Expenditures submitted by the Johnson for Governor Committee in July 2014 reported all "Employee Expense: Salary" expenditures as being made directly to the employees. Each payment was itemized by individual and included the individual's address.

**Findings:**

1. The Johnson for Governor Committee reported employee salary expenditures as being made to an entity other than the employee providing the services on its May 2014 Report of Receipts and Expenditures.
2. The Johnson for Governor Committee's 2014 pre-primary-election Report of Receipts and Expenditures listed employee salary expenditures as being made directly to employees of the committee.
3. There was no allegation, and there is no evidence, that the omission of employee names and addresses from the original report was done with the intent to avoid disclosure.

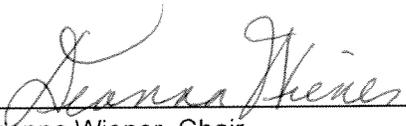
**Conclusions:**

1. Probable cause exists to believe that the Johnson for Governor Committee violated section 10A.20, subdivision 3, of the Minnesota Statutes.
2. The Johnson for Governor Committee has remedied the reporting error contained in its 2014 May Report of Receipts and Expenditures by properly itemizing employee salary expenditures on its 2014 pre-primary-election Report of Receipts and Expenditures.

3. No penalty is provided for by statute when a reporting error has been corrected by the submission of an amendment.
4. Because the reporting error has been corrected and because no further penalty is provided for by statute, the Board concludes that it should commit no further resources to investigating this matter.

**Order:**

1. The complaint in the above matter is dismissed.

  
\_\_\_\_\_  
Deanna Wiener, Chair  
Campaign Finance and Public Disclosure Board

Dated: 9-2-14, 2014

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

**PROBABLE CAUSE DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF STEVE TIMMER REGARDING MINNESOTA JOBS COALITION AND MINNESOTA JOBS COALITION LEGISLATIVE FUND:

**Background**

This complaint alleges that the Minnesota Jobs Coalition exists for the purpose of influencing Minnesota elections and, as a result, was required to register with the Board as a political committee or fund and to file periodic reports as required by Chapter 10A and that it failed to do so. The complaint also states that the alleged relationship between Minnesota Jobs Coalition and Minnesota Jobs Coalition Legislative Fund (the Legislative Fund) was for the purpose of circumventing the application of the disclosure provisions of Chapter 10A that require attribution of donations to the source of funds.

On the basis of its allegations, the Board Chair determined that the complaint stated a prima facie violation of Chapter 10A.

However, the threshold for a prima facie determination is low. A prima facie determination is a determination that the complaint alleges a violation of Chapter 10A or of the provisions of Chapter 211B that are under the Board's jurisdiction. At the prima facie determination stage, the Board does not examine the strength of the complaint's allegations. The strength of those allegations is examined at the probable cause determination stage.

The Board conducted its probable cause determination hearing in this matter at its meeting of September 2, 2014. The Board had previously been provided with written probable cause arguments by both the complainant and the respondent Minnesota Jobs Coalition. At the hearing, the Board also heard argument from the Minnesota Jobs Coalition chair, Ben Golnick, and the Minnesota Jobs Coalition attorney, Kevin Magnuson.

**Analysis**

In making a probable cause determination, the Board considers the allegations of the complaint in light of the arguments made by the parties and any inferences that a reasonable person could draw from the allegations. Because the Board is an investigative body, it is not necessary that the complainant establish that a violation has actually occurred. That determination will be made based on the investigation, if one is undertaken. However, the complainant must at least provide credible allegations that would justify an investigation.

The Board concludes that under any standard, the complaint must include at least sufficient credible allegations based in fact to justify moving forward with an investigation. The Board concludes that the allegations in the complaint in this matter are not sufficient to find probable cause that a violation exists that should be investigated by the Board.

The complaint first states that the link on the Board's website titled "Minn Jobs Coalition" actually links to records and reports of the Legislative Fund's activities. The link was originally mistitled by Board staff, as the Legislative Fund's original registration statement filed with the Board provides the name of "Minnesota Jobs Coalition Legislative Fund." The link has been corrected to include the "Legislative Fund" portion of the registered committee's name. Moreover, the fact that a registered political committee and an unregistered entity maintain similar names is not evidence of a violation of campaign finance laws. In fact, entities frequently register a political affiliate with a similar name.

The complaint next alleges that the Minnesota Jobs Coalition made a \$25,000 contribution to the Legislative Fund in 2013, which was over a quarter of the total money contributed to the Legislative Fund that year. The supporting argument also notes that the Minnesota Jobs Coalition made a \$30,000 contribution to the Legislative Fund in 2014, which is currently over two-thirds of the Legislative Fund's receipts for the year. These contributions are not disputed and were, in fact, reported on the Legislative Fund's 2013 year-end Report of Receipts and Expenditures and 2014 pre-primary-election Report of Receipts and Expenditures filed with the Board. These contributions do not provide any factual basis to conclude that the Minnesota Jobs Coalition's activities are conducted for the major purpose of influence elections, as they may simply account for a small portion of the corporation's activities as respondent asserts.

Third, the complaint states that the Minnesota Jobs Coalition and the Legislative Fund are nearly identical in name, address, organizing individuals, and apparent purpose. It is not unusual for a registered committee and an affiliated unregistered entity to be nearly identical in name, address, or organizing individuals. No provision in Minnesota's campaign finance laws prevents such a similarity. Although the complainant also states that the organizations are nearly identical in their apparent purpose, no evidence is provided with regard to the Minnesota Jobs Coalition's apparent purpose other than that it made contributions to the Legislative Fund.

Next, the complainant states that the Minnesota Jobs Coalition, or the Legislative Fund, or both, have undertaken activities with the major purpose of influencing elections. But the complainant admits that he cannot tell which entity is undertaking the activities. This speculation does not amount to evidence of the Minnesota Jobs Coalition's major purpose as, by the complainant's own assertion, the Legislative Fund may have undertaken all of the listed activities.

The complaint then again seeks to infer that the Minnesota Jobs Coalition's major purpose is to influence the outcome of elections, given the circumstances surrounding the names, formation, and principal individuals involved. These facts, to the complainant, must inevitably lead to the conclusion that the Minnesota Jobs Coalition was formed for the same purpose as the Legislative Fund, to influence the outcome of elections. However, as discussed above, these similarities are not evidence of any major purpose of the Minnesota Jobs Coalition as they provide no evidence as to any actual activities of the Minnesota Jobs Coalition.

The complainant also states that he is not aware of any record demonstrating any other activities of the Minnesota Jobs Coalition, and that one of the purposes of the Minnesota Jobs Coalition is to fund, or reimburse, the activities of the Legislative Fund. One purpose of an unregistered entity may consist of funding the activities of a committee registered with the Board. This activity is not prohibited by the campaign finance statutes and does not provide a basis on which to conclude that the major purpose of the unregistered entity is to influence elections.

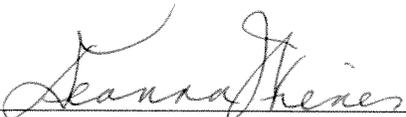
Finally, the complainant states that a conclusion is compelled that the Minnesota Jobs Coalition was formed to avoid the disclosure of contributors. It is not uncommon, nor is it prohibited, for a 501(c)(4) advocacy association to donate some of its general treasury money to an affiliated independent expenditure political committee. The complainant has provided no allegation sufficient to establish probable cause that the transactions in this matter are anything other than such a donation of general treasury money. In addition, the Minnesota Jobs Coalition has provided underlying disclosure statements with contributions to the Legislative Fund that provide information on the source of funds used to make its contributions. The complainant does not argue, and provides no facts that indicate, that these disclosure statements are inaccurate or not forthcoming, and therefore the conclusion that the Minnesota Jobs Coalition was formed to avoid the disclosure of contributors lacks merit.

**Conclusions:**

The allegations in the complaint in this matter are insufficient to establish probable cause that a violation of Chapter 10A exists that should be investigated by the Board.

**Order:**

The complaint in this matter is dismissed.

  
\_\_\_\_\_

Deanna Wiener, Chair  
Campaign Finance and Public Disclosure Board

Dated: 9-2-14

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

**FINAL AUDIT REPORT**

2014 AUDIT OF CANDIDATES' ELIGIBILITY FOR PUBLIC SUBSIDY PAYMENTS:

Candidates for Minnesota office must comply with certain requirements in order to be eligible for public subsidy payments. The candidates must: (1) sign a public subsidy agreement with the Board in which they agree to be bound by certain spending limits, among other provisions, (2) raise a statutorily specified amount in qualifying contributions, (3) file a notarized affidavit of contributions with the Board verifying that the candidate has raised the required amount in qualifying contributions, and (4) appear on the general election ballot. To ensure eligibility for public subsidy payments, the Minnesota Campaign Finance and Public Disclosure Board audited the contributions supporting the affidavit of contributions for certain candidates who signed a public subsidy agreement.

The Board set a threshold of twice the amount a candidate was required to raise in qualifying contributions to determine which candidates would be subject to an audit. Using this threshold, for example, a candidate for Minnesota House would be subject to the audit if the candidate had reported \$3,000 or less in individual contributions for the 2013-2014 election cycle, as the required amount of qualifying contributions for Minnesota House candidates is \$1,500. Applying this threshold to the candidates who had signed a public subsidy agreement and filed an affidavit of contributions led to the following results:

- 38 House candidates reported less than the \$3,000 audit threshold for the required \$1,500 in qualifying contributions;
- 2 Attorney General candidates reported less than the \$30,000 audit threshold for the required \$15,000 in qualifying contributions;
- 1 Secretary of State candidate reported less than the \$12,000 audit threshold for the required \$6,000 in qualifying contributions; and
- 1 State Auditor candidate reported less than the \$12,000 audit threshold for the required \$6,000 in qualifying contributions.

Failure to report individual contributions that exceeded the audit threshold was not determinative of a candidate's eligibility for public subsidy payments; it simply determined which candidates would be subject to an audit by the Board to ensure that their certified affidavit of contributions was, in fact, correct and that the candidate had raised the required amount in qualifying contributions necessary to receive public funds. Attachment A lists the candidates who were subject to the audit.

The Board requested that each candidate subject to the audit provide a list of individual contributors that the candidate included as qualifying contributions to reach the amount required to qualify for public subsidy. A qualifying contribution is a contribution received by July 21, 2014, from an individual eligible to vote in Minnesota and for which the committee has the date of the contribution and the name and address of the contributor. Only the first \$50 from each contributor is considered a qualifying contribution, and in-kind contributions are not eligible to be considered as qualifying contributions.

Board staff reviewed the lists of individual contributors provided by the candidates against the aforementioned criteria for eligible qualifying contributions. Jeff Sigurdson, Assistant Executive Director to the Board, was the individual primarily responsible for the audit. Mr. Sigurdson was supported in evaluating the candidates' responses by Joyce Larson, Compliance Officer, and Kyle Fisher, Legal Analyst.

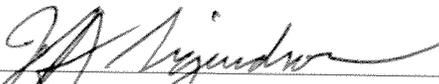
**Audit Results:**

Some candidates provided reports with updated contributions to the Board and the committees have been notified of the need to amend pre-primary-election reports, where appropriate. Candidates who amended their contribution lists after the initial submission to provide for additional contributions necessary to reach the required amount were required to provide verification for the additional contributions by supplying copies of checks or written verification from contributors.

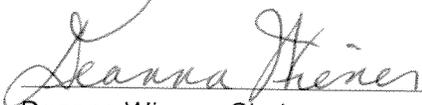
**Findings:**

1. House candidate Sharon Shimek and the (Sharon) Shimek for House 30B Committee, registration number 17558, reported receiving \$1,850.00 in individual contributions over the 2013-2014 election cycle. The audit of the committee's qualifying contributions revealed that only \$1,450.00 of the reported individual contributions was eligible to be considered qualifying contributions as required by statute. The committee included in its qualifying contributions amounts over the \$50 limit, as well as a contribution from an individual who is not an eligible Minnesota voter. When advised of this fact, the candidate informed the Board that she was unable to provide any additional qualifying contributions. The Board therefore finds that the (Sharon) Shimek for House 30B Committee has failed to raise the required amount in qualifying contributions. As a result, Sharon Shimek is not eligible to receive public subsidy funds for the 2014 election.
2. The remaining 41 committees subject to the audit satisfied the amount of qualifying contributions required by the affidavit of contributions.

Responsible Staff Person:

  
\_\_\_\_\_  
Jeff Sigurdson, Assistant Executive Director  
Campaign Finance and Public Disclosure Board

Dated: 9-2-14

  
\_\_\_\_\_  
Deanna Wiener, Chair  
Campaign Finance and Public Disclosure Board

Dated: 9-2-14

## Attachment A:

Candidates who did not report individual contributions that reached the required threshold

## House Candidates (\$3,000 threshold)

<b>Reg. Number</b>	<b>Committee Name</b>	<b>Party</b>	<b>2013 Contrib.</b>	<b>2014 Contrib.</b>	<b>Total Contrib.</b>
17291	Susan Allen for 62B Campaign	DFL	\$500.00	\$1,910.00	\$2,410.00
17814	Friends of Xavier Bicott	RPM	\$0.00	\$1,720.00	\$1,720.00
17550	Blum (Joe) Volunteer Committee	RPM	\$0.00	\$1,970.00	\$1,970.00
17575	Davern (Patrick) Volunteer Committee	DFL	\$0.00	\$1,500.00	\$1,500.00
17731	Ellingboe (Brenden) for House	DFL	\$0.00	\$1,612.00	\$1,612.00
17795	Finken Do It! (John Finken) Committee	DFL	\$0.00	\$2,625.00	\$2,625.00
17715	Bob Frey MN	RPM	\$0.00	\$1,810.00	\$1,810.00
17829	Hafvenstein (Timothy) for House	RPM	\$0.00	\$2,150.00	\$2,150.00
17788	Friends of Lynae (Hahn)	RPM	\$0.00	\$2,003.80	\$2,003.80
17790	Heyer (Jon) 4 House	RPM	\$0.00	\$1,865.00	\$1,865.00
17766	Emily Jensen for House	DFL	\$0.00	\$2,362.00	\$2,362.00
17480	Kanne (James) for House 16B	DFL	\$900.00	\$1,220.00	\$2,120.00
17725	Kowalski (Matthew) for Minnesota House	RPM	\$0.00	\$2,700.00	\$2,700.00
17834	Jared LaDuke MN House 4B Committee	RPM	\$0.00	\$1,575.00	\$1,575.00
17800	Margaret (Martin) for MN House 59B	RPM	\$0.00	\$2,395.00	\$2,395.00
17783	Mali Marvin for House	RPM	\$0.00	\$2,250.00	\$2,250.00
17809	Matasich (Matt) for House	RPM	\$0.00	\$1,825.00	\$1,825.00
17780	Anthony (Meschke) for MN	RPM	\$0.00	\$2,136.00	\$2,136.00
17761	Committee to Elect Brent Millsop	RPM	\$0.00	\$1,585.00	\$1,585.00
17812	Miltich for Dist 8a	DFL	\$0.00	\$2,110.00	\$2,110.00
17039	Rena Moran for State Representative	DFL	\$530.00	\$1,265.00	\$1,795.00
17826	Friends 4 Lizz Paulson	RPM	\$0.00	\$2,082.00	\$2,082.00

17724	Committee to Elect Jeff Phillips	RPM	\$0.00	\$1,888.00	\$1,888.00
17781	Thomas Keith Price for House of Representatives 27A	IPMN	\$0.00	\$1,750.00	\$1,750.00
17535	Quinn4House (John)	RPM	\$350.00	\$1,556.00	\$1,906.00
17822	Steven Schiroo for MN House 18A	DFL	\$0.00	\$1,560.00	\$1,560.00
17830	Friends of Mark Schneider House 21B	DFL	\$0.00	\$2,750.00	\$2,750.00
17558	(Sharon) Shimek for House B	DFL	\$0.00	\$1,850.00	\$1,850.00
17789	Don Slaten for House 54B	DFL	\$0.00	\$1,965.00	\$1,965.00
17823	Friends of Diana Slyter	DFL	\$0.00	\$2,105.00	\$2,105.00
17799	Statema for MN House District 59A	RPM	\$0.00	\$1,815.00	\$1,815.00
17832	Volunteers for Surman (Daniel)	RPM	\$0.00	\$2,290.00	\$2,290.00
17765	Chuck 4 House (Chuck Sutphen Sr)	RPM	\$0.00	\$1,880.00	\$1,880.00
17773	Frank Taylor For State House	RPM	\$0.00	\$1,660.00	\$1,660.00
17728	Marla Vagts Campaign	DFL	\$0.00	\$2,260.00	\$2,260.00
17516	Committee for Roger T Weber for HD 6A	RPM	\$0.00	\$1,835.00	\$1,835.00
17758	Alma (Wetzker) for House	RPM	\$0.00	\$2,275.91	\$2,275.91
17721	Whitethorn (Justice) for House	RPM	\$0.00	\$2,335.00	\$2,335.00

Attorney General Candidates (\$30,000 threshold)

Reg. Number	Committee Name	Party	2013 Contrib.	2014 Contrib.	Total Contrib.
17755	Brandan Borgos for AG	IPMN	\$0.00	\$20,624.00	\$20,624.00
17810	Newman (Scott) for Attorney General	RPM	\$0.00	\$27,583.00	\$27,583.00

Secretary of State Candidates (\$12,000 threshold)

Reg. Number	Committee Name	Party	2013 Contrib.	2014 Contrib.	Total Contrib.
17742	Bob Helland for MN Secretary of State	IPMN	\$0.00	\$7,650.00	\$7,650.00

State Auditor Candidates (\$12,000 threshold)

Reg. Number	Committee Name	Party	2013 Contrib.	2014 Contrib.	Total Contrib.
17772	Pat Dean for State Auditor	IMP	\$0.00	\$7,644.00	\$7,644.00