

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

.....  
**January 4, 2017  
Nokomis Room  
Centennial Office Building**

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**MINUTES**

The meeting was called to order by Chair Rosen.

Members present: Flynn, Greenman, Leppik, Moilanen, Oliver (arrived during executive director topics), Rosen

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

**MINUTES** (November 10, 2016)

After discussion, the following motion was made:

Member Greenman's motion: To approve the November 10, 2016, minutes as drafted.

Vote on motion: Unanimously passed (Oliver absent).

**CHAIR'S REPORT**

**Meeting schedule**

The next Board meeting is scheduled for 10 a.m. on Tuesday, January 31, 2017.

**EXECUTIVE DIRECTOR TOPICS**

Mr. Sigurdson presented members with a memorandum on office operations that is attached to and made a part of these minutes. Mr. Sigurdson told members that December and January are always busy months because staff must prepare for year-end reporting in all three major program areas overseen by the Board. Mr. Sigurdson said that staff also had made two presentations since the last meeting including a demonstration of the new website at the national conference of the Council on Governmental Ethics Laws. Mr. Sigurdson reported that the new website would be released to the public in early January. Mr. Sigurdson also stated that all public subsidy payments for 2016 had been made and that a report showing these payments by legislative district was in the meeting materials. Finally, Mr. Sigurdson said instructions from the Governor's office suggested that the base budget for state agencies for the coming biennium would be flat with no adjustments for inflation. Mr. Sigurdson stated that he would provide regular updates to the Board as the budget process moved forward.

In response to questions from members, Mr. Sigurdson confirmed that Member Oliver's term had expired at the end of 2016. Member Oliver said that he had not reapplied for his position. Mr. Sigurdson clarified that Member Oliver would continue to serve until a replacement had been appointed. Mr. Sigurdson said that he would keep the Board informed about the search for Member Oliver's replacement.

### **ADMINISTRATIVE RULES UPDATE**

Mr. Sigurdson and Ms. Pope presented members with a memorandum on this matter that is attached to and made a part of these minutes. Mr. Sigurdson said that the Request for Comments for the proposed rulemaking had been published in the State Register on December 5, 2016, and that notice of the rulemaking had been sent to all candidates, committee chairs and treasurers, lobbyists, and public officials who had provided email addresses to the Board. Mr. Sigurdson reported that at least one comment or question had been received for each of the proposed rulemaking topics.

Chair Rosen then appointed Members Leppik and Moilanen to the rule committee and asked them to determine the date for the first rule committee meeting. Ms. Pope said that after the meeting date had been set, notice would be published on the Board's website and sent to those who had requested notices of Board rulemakings and meetings.

### **ENFORCEMENT REPORT**

#### **A. Discussion Items**

##### **1. Request to adjust 2014 year-end cash balance to zero and terminate committee as of 12/31/2014 – Mike Bidwell Volunteer Committee**

Mr. Fisher told members that this committee registered with the Board on July 23, 2008. The candidate last ran for office in 2008, and the committee had filed no change reports or reports disclosing only the payment of late filing fees since that time. Mr. Fisher stated that the committee last reported a cash balance of \$702.59 as of 12/31/2014. Mr. Fisher said that the candidate had stated that the bank balance actually was around \$12 and that no records now existed to explain the discrepancy given the passage of time. Mr. Fisher stated that terminating the committee as of 12/31/2014 would also effectively waive the \$1,000 late filing fee and \$1,000 civil penalty that had accrued due to the committee's failure to file its 2015 year-end report.

Mr. Fisher said that, at the Board's request, staff contacted Mr. Bidwell after the November meeting to obtain additional information about the committee's finances. Mr. Bidwell said that he kept his committee open after 2008 because he planned to run again in 2010. Mr. Bidwell stated that, to keep his name in front of potential voters, he attended several fundraising dinners and local political party conventions in 2009 and early 2010. He ended these activities in May 2010 when he started a new job, which prevented him from being active in politics.

Mr. Fisher said that Mr. Bidwell stated that most of the events that he attended involved admission fees or donations of around \$25 to \$100, which were paid for with committee funds. Mr. Bidwell said that he put the receipts in an envelope for his treasurer. His treasurer, however, resigned in December 2009, and Mr. Bidwell stated that he lost the envelope. Mr. Fisher said that Minnesota

Statutes section 10A.025, subdivision 3, requires committees to keep records for only four years after a report is filed, so Mr. Bidwell was not required to have records from 2009 and 2010.

Mr. Fisher told members that Board records showed that Mr. Bidwell personally paid \$225 in late fees for his committee's reports. Those fees could have been paid for with committee funds, or the funds could have been used to reimburse Mr. Bidwell, if sufficient funds had been available. Mr. Fisher said that, in addition, Mr. Bidwell could have terminated the committee with a balance of \$100 and would never have had to account for that amount.

After discussion, the following motion was made:

Member Flynn's motion: To approve the Bidwell committee's request to adjust its 2014 year-end balance to zero and to terminate as of 12/31/2014.

Vote on motion: Unanimously passed.

## **2. Request for reconsideration of waiver – St Louis County DFL**

Mr. Fisher told members that on November 10, 2016, the Board had considered a waiver request from this party unit. No motion was made on the request. Mr. Fisher said that the request was in regards to a \$700 late filing fee incurred on the party unit's pre-primary report due on 7/25/2016. The party unit last reported a cash balance of \$955.

Mr. Fisher said that in the initial request, the treasurer stated that he had attempted to file the report on 7/16 but it apparently did not go through. The treasurer also stated that he did not receive any confirmation that the report had been uploaded. Mr. Fisher said that Board logs contained no record of activity for the party unit prior to filing the report on 8/14. Board staff left a voicemail with the treasurer regarding the outstanding report on 7/29. Mr. Fisher said that the request for reconsideration simply restated that the party unit did not know why the report did not go through.

After discussion, no motion was made.

## **3. Confirmation of lobbyist termination on behalf of listed clients – Albert Hofstede**

Mr. Fisher told members that Mr. Hofstede had passed away on September 3, 2016. Mr. Fisher said that Mr. Hofstede's clients were listed in the request. Mr. Fisher stated that staff was asking the Board to confirm the termination of these lobbying relationships.

After discussion, the following motion was made:

Member Flynn's motion: To confirm the termination of the lobbying relationships listed in the request.

Vote on motion: Unanimously passed.

**4. Confirmation of lobbyist termination – Brent Urdahl**

Mr. Fisher told members that the Red Lake Tribal Council had terminated the services of lobbyist Urdahl on 5/31/2016. Several attempts to reach Mr. Urdahl had gone unanswered. Mr. Fisher said that staff was asking the Board to confirm the termination of this lobbyist relationship.

After discussion, the following motion was made:

Member Greenman's motion: To confirm the termination of this lobbyist relationship.

Vote on motion: Unanimously passed.

**5. Referral to Attorney General's Office – candidates Tim Johnson and Kirsten Johnson**

Mr. Fisher told members that Tim Johnson and Kirsten Johnson were required to file statements of economic interest within 14 days of filing for office in 2016. Mr. Fisher said that as of the date of the meeting, these statements had not been received despite repeated staff requests and the maximum late filing fee of \$100 and civil penalty of \$1,000 had accrued against each candidate. Mr. Fisher said that staff was asking the Board to refer both individuals to the attorney general's office to seek an order compelling the filing of the statements and a judgment against each individual for the \$1,100 in accrued late filing fees and civil penalties.

After discussion, the following motion was made:

Member Leppik's motion: To refer Tim Johnson and Kirsten Johnson to the attorney general's office with directions to seek orders compelling the filing of their economic interest statements and judgements for the late filing fees and civil penalties owed.

Vote on motion: Unanimously passed.

**6. Request to withdraw registration – Rightway Minnesota**

Mr. Fisher told members that this committee registered with the Board on 11/28/2016 and had not received any contributions or made any expenditures to date. Mr. Fisher said that the committee planned to move forward as a 501(c)(4) organization.

After discussion, the following motion was made:

Member Oliver's motion: To approve Rightway Minnesota's request to withdraw its registration.

Vote on motion: Unanimously passed.

**B. Waiver requests**

<u>Name of Candidate or Committee</u>	<u>Late Fee &amp; 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>
Kanabec County DFL	\$50 LFF	10/31/2016 Pre-general	Treasurer attempted to upload report prior to deadline. Board logs confirm that an upload was attempted prior to the deadline.	Member Moilanen	To waive the late filing fee.	Passed unanimously.
AFSCME	\$1,000 LFF	7/20/2016 24 Hr. Rep.	Fund had previously entered contributions as non-itemized income. When notified by Board staff that contributions should be entered as contributions from supporting association, a 24-hour notice report for the pre-primary-election period became due. This resulted in maximum late filing fee being incurred.	Member Rosen	To waive the late filing fee.	Passed unanimously.
Sherrie Pugh 4 Senate <sup>1</sup>	\$50 LFF	10/31/2016 Pre-general	Candidate had issues submitting the report on the deadline. Incorrectly entered expenditure resulted in a negative cash balance, which prevented the report from being submitted. Report was submitted at 12:05am on 11/1/2016.	Member Leppik	To waive the late filing fee.	Passed unanimously.
Adam Isakson	\$100 LFF; \$900 CP	7/14/2016 EIS	Candidate was unaware that he had not completed all required paperwork and was out of state with the National Guard.	Member Rosen	To waive the late filing fee and civil penalty.	Passed unanimously.
MAHU Agents and Insurance Professionals	\$50 LFF	9/27/2016 Sept Report	Treasurer forgot to attach report with email sent on the filing deadline.	No motion		
Local 68	\$100 LFF	10/27/2016 24 Hr. Rep.	Fund did not believe that transfer from its general fund required a 24-hour notice report.	Member Rosen	To waive the late filing fee.	Passed unanimously.

**Informational Items**

**A. Payment of a late filing fee for 2015 year-end report of receipts and expenditures**

Duluth DFL (Tamara Jones) Revenue Recap, \$428.88  
 Timothy O. Manthey for House, \$25  
 Dave Thompson for Governor, (2015 reconciliation amendment) \$175

**B. Payment of a late filing fee for June 15, 2016, lobbyist disbursement report**

Rachel Nelson, Forest Lake Area Schools, \$25

<sup>1</sup> Late filing fee has already been paid. Waiver will act as a reimbursement to the committee.

**C. Payment of a late filing fee for April 2016 report of receipts and expenditures**

Voter ID for MN, \$50

**D. Payment of a late filing fee for October 31, 2016, report of receipts and expenditures**

Ali Ali for Minnesota, \$50  
Amorosia (Dale) for State Senate, \$750  
Ian Baird for State Senate, \$50  
Chilah Brown for Senate, \$50  
Neighbors for (Jim) Davnie, \$50  
Meg Litts for House 9A, \$1,000  
Sherrie Pugh 4 Senate, \$50  
Sterner (Phillip) for Senate, \$50

DLCC for Minnesota, \$150  
Fight for Our Future, \$50  
VOTE – 66, \$50

Kandiyohi County RPM, \$50  
Minn DFL State Central Committee, \$50

**E. Payment of a late filing fee for July 25, 2016, report of receipts and expenditures**

Tony Cornish for State Rep, \$100  
DFL Hunting and Fishing Club, \$20

**F. Payment of a late filing fee for a 24-hour notice of large contribution**

Janice Kittok for Senate, \$50  
Shakopee Mdewakanton Sioux, \$150  
TRIAL PAC, \$1,000

**G. Payment of a late filing fee for candidate economic interest statement**

Benjamin DeNucci, \$65

**H. Payment of a civil penalty for conversion to personal use**

Tim Manthey for Senate, \$200

**I. Payment of a civil penalty for commingling committee funds**

Joseph Brown Jr., \$1,000

**J. Payment of a civil penalty for 2016 disclaimer violation**

David Bly Committee 20B, \$250  
Roger Johnson Campaign Committee, \$50

**K. Deposit to the General Fund, State Elections Campaign Fund**

Committee For Better Schools, \$65 (Hennepin County registered committee)

**PRIMA FACIE DETERMINATIONS FINDING NO VIOLATION**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that since the last meeting, Chair Rosen had dismissed twelve complaints on the grounds that they did not state prima facie violations.

**LEGAL COUNSEL'S REPORT**

Mr. Hartshorn told members that his office had served complaints in three of the four economic interest matters listed on the report. Mr. Hartshorn said that his office had not served the complaint in the Jeffrey Johnson matter because Board staff had identified an issue with this case that needed to be resolved before it could move forward.

**OTHER BUSINESS**

There was no other business to report.

**EXECUTIVE SESSION**

The Chair recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the regular session of the meeting was called back to order and the Chair reported the following matters into regular session:

Probable cause determination and findings, conclusions, and order in the matter of the complaint of Lueck regarding Wagner (Erin) for Minnesota

Order in the matter of the Board investigation of Derrick Lehrke for House

Order in the matter of the staff review of Paul Perovich for Senate

Order in the matter of the staff review of Brandon D. Anderson for SD6

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

Respectfully submitted,



Jeff Sigurdson  
Executive Director

Attachments:

Memorandum regarding executive director topics  
Memorandum regarding administrative rules update

Memorandum regarding prima facie determinations finding no violation

Legal report

Probable cause determination and findings, conclusions, and order in the matter of the complaint of Lueck regarding Wagner (Erin) for Minnesota

Order in the matter of the Board investigation of Derrick Lehrke for House

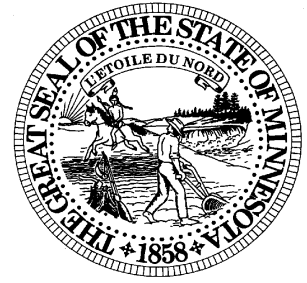
Order in the matter of the staff review of Paul Perovich for Senate

Order in the matter of the staff review of Brandon D. Anderson for SD6



Minnesota

# *Campaign Finance and Public Disclosure Board*



**Date:** December 28, 2016

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Executive Director's Report – Board Operations December 2016

## **Year-end Reports**

December is always one of the busiest times of the year for Board staff as it prepares for end of the year reporting in all three major program areas; campaign finance, lobbying, and economic interest statements. For all three programs staff sends a first class letter to the individual responsible to file the report. As the reporting deadline approaches reminder e-mails are sent to those who have not yet filed, and reminder phone calls are made to non-filers at the reporting deadline.

**Lobbying Program.** The lobbyist disbursement report covering the period of June 1 through December 31, 2016, is due on January 17, 2017. There are 2,076 reports expected, with usually around 98% of the reports filed through the online filing system provided by the Board. Marcia Waller and Jon Peterson are the lead staff for this report.

**Campaign Finance Program.** The year-end report of receipts and expenditures for 2016 is due on January 31, 2017. Reports are due from 657 candidates, 317 political party units, 335 political committees and funds, and 49 independent expenditure committees and funds. Over 90% of the reports will be filed electronically, but a significant amount of reports will require staff data entry. Joyce Larson, Jon Peterson, and Gary Bauer are the lead staff for this report.

**Economic Interest Statement.** The annual certification by public officials for 2016 is due on January 30, 2017. There will be 2,637 annual certifications due, plus another 359 original economic interest statements filed by judges, county commissioners, and soil and water district commissioners elected for the first time in 2016. Staff expects that over 90% of annual certifications will be done through the online filing system. A new instructional video on using the EIS online system has been developed added to the website. Jodi Pope, Andrew Schons, Jon Peterson, and Gary Bauer are primarily responsible for this reporting project and did a lot of work importing and cross matching information on newly elected officials into the Board's database from data files provided by the Secretary of State.

## **Presentations by staff**

The Messerli and Kramer law firm requested staff participation at a training session for their staff on December 15th. Ms. Waller provided an overview of lobbyist registration and reporting. Mr. Fisher did a demonstration of the new website.

Mr. Fisher and I attended the annual COGEL (Council on Governmental Ethics Laws) national conference in New Orleans, December 11 – 14<sup>th</sup>. At the conference Mr. Fisher presented a demonstration of the new website. The response to the new website was very positive, with attendees from several states telling me that they were impressed both with the range of new features and with the relatively low development cost for the site. I serve on the steering committee for COGEL and also serve as treasurer for the organization. There were 413 attendees at this year's conference.

## **Web Site Development**

I have directed staff to release the new website in January. At this point all major features are complete. But there are a large number of pages and content on the current site which need to be moved and formatted for the new site. Although this process is not particularly difficult it is time consuming, and the new site will probably be released with some missing content that will be added on as staff time allows.

## **Public Subsidy Payments**

On December 6<sup>th</sup>, staff processed a second public subsidy payment to 339 qualified candidates for the 2016 election. The December payment is much smaller than the payment made after the primary election and is based on only 2015 state tax returns processed by the Dept of Revenue after the primary payment in August. In total the Board issued \$2,162,062 in public subsidy payments during 2016. A report showing the public subsidy payment made to each candidate by legislative district is attached for your reference.

## **Board Budget**

The Governor's biennial budget recommendations will be released on January 24, 2017. The Governor did release budget instructions to agencies that suggests that the base budget for state agencies will be flat, with no built in inflationary increase for fiscal years 2018 and 2019. The current Board operating budget is \$1,028,000. I will be providing regular updates to the Board on the budget process as it unfolds.

## **Attachment**

Press Release on 2016 Public Subsidy Payments

# Campaign Finance *and* Public Disclosure Board



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

**DATE:** December 28, 2016

**TO:** Board Members

**FROM:** Jeff Sigurdson  
Executive Director

**TELEPHONE:** 651-539-1189

Jodi Pope  
Management Analyst

651-539-1183

**SUBJECT:** Administrative rule update

As authorized by the Board at its November meeting, the request for comments on proposed rulemaking was published in the State Register on December 5, 2016. The request gave notice of two potential rulemakings; one for noncontroversial topics and one for all other topics. The request listed the nine areas for potential rulemaking that the Board authorized at its November meeting. The request also stated that the Board would consider other potential rule topics submitted by members of the public as resources permitted.

Notice of the request for comments and a link to the rulemaking page on the website were sent by email to candidates with registered committees and their chairs; the chairs and treasurers of political committees and funds and party units registered with the Board; lobbyists registered with the Board; public officials who file statements of economic interest with the Board; everyone on the Board's registered rulemaking notice list; and everyone who registered for the Board's email distribution lists. Staff already has received at least one comment or question regarding every proposed topic. Most comments and questions, however, concern the independent expenditure proposals.

The next step is for the chair to appoint a rule subcommittee. Staff would prefer that at least two, but no more than three, Board members serve on the subcommittee. The subcommittee will serve as the sounding board for comments from the public and regulated community. The subcommittee will provide direction to staff in drafting the proposed rules that will be presented to the full Board for consideration.

To keep the rulemaking on track staff asks that the first meeting of the subcommittee occur the week of January 16th. Staff anticipates that four to five subcommittee meetings will be required and that the meetings will occur about every three weeks.

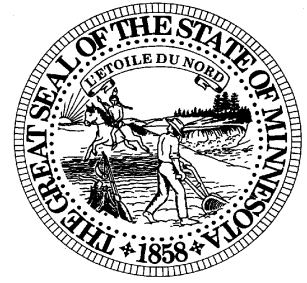
The list of proposed rulemaking topics and the rulemaking progress chart are attached for reference.

## **Attachments**

List of proposed rulemaking topics  
Rulemaking progress chart

Minnesota

# *Campaign Finance and Public Disclosure Board*



**Date:** December 28, 2016

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Prima facie determinations finding no violation

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

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

### **Complaint regarding Minnesotans for Erin Maye Quade and the Minnesota Everytown for Gun Safety Victory Fund:**

On November 9, 2016, the Campaign Finance and Public Disclosure Board received a complaint submitted by Patrick Watson regarding Minnesotans for Erin Maye Quade and the Minnesota Everytown for Gun Safety Victory Fund, an independent expenditure political fund. The complaint alleged that the Everytown Fund improperly coordinated its expenditures with the Maye Quade committee. To find a coordination violation, the Board must first conclude that the Everytown Fund made an expenditure on behalf of the Maye Quade committee. The complaint did not provide any factual basis for the assertion that the Everytown Fund made an expenditure on behalf of the Maye Quade committee. On November 16, 2016, the chair therefore made a determination that the complaint did not state a prima facie violation of the provisions governing approved expenditures or independent expenditure funds.

Attachments: Complaint, Prima Facie Determination

### **Complaint regarding Howard Lewis**

On November 22, 2016, the Campaign Finance and Public Disclosure Board received a complaint submitted by Michael Stylski, Sr. regarding Howard Lewis. The complaint alleged that Howard Lewis had violated section 211B.04 of the Minnesota Statutes by failing to include the appropriate disclaimer on campaign literature. The violation alleged in the complaint concerned campaign material for the Cambridge city council, a local office. As the alleged violation was not under the Board's jurisdiction, the Board chair found that the complaint did not support a finding of a prima facie violation.

Attachments: Complaint, Prima Facie Determination

**Complaints regarding Friends of Bruce D Anderson, Joe McDonald for State Rep, and O'Neill (Marion) For House:**

On December 19, 2016, the Board received ten complaints regarding the above three candidates – one regarding Rep. McDonald, three regarding Rep. O'Neill, and six regarding Sen. Anderson. The complaints all alleged that the candidate's committee had received an impermissible corporate contribution because the complainant had observed and documented the existence of the candidate's campaign sign on corporate property. However, nothing in the cited prohibition prevents the candidates from buying signage space from the subject businesses. The complaint provided no basis for the assertion that the committee did not pay for the use of that space. In fact, the payment for the placement of small lawn signs for a limited time frame is typically not large enough to be itemized on a candidate's report. For these reasons the chair dismissed the complaints.

Attachments: Prima Facie Determinations; one complaint for each candidate.

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD  
January, 2017**

**ACTIVE FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
David Berglund	Cook Soil and Water Conservation District	Unfiled Economic Interest Statement due January 25, 2016  Untimely Filing of 2015 Economic Interest Statement  Untimely Filing 2011 Economic Interest Statement	\$100 LF \$1,000 CP  \$80 LF  \$100 LF \$100 CP	7/7/16				
Brenden Ellingboe	Ellingboe (Brenden) for House	Unfiled 2015 Year- end Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	11/29/16				
Jeffrey Hoffman	Yellow Medicine River Water District	Unfiled Economic Interest Statement due January 25, 2016	\$100 LF \$1,000 CP	7/7/16				

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Jeffrey Johnson	Shingle Creek Watershed Mgmt Commission	Unfiled Economic Interest Statement due January 25, 2016	\$100 LF \$1,000 CP	7/7/16				
Larry Stelmach	West Mississippi Watershed Mgmt Commission	Unfiled Economic Interest Statement due January 25, 2016	\$100 LF \$1,000 CP	7/7/16				
	West Mississippi Watershed Mgmt Commission	Late Filing of Economic Interest Statement due July 19, 2015	\$100 LF \$1,000 CP					
	Shingle Creek Watershed Mgmt Commission	Unfiled Economic Interest Statement due January 25, 2016	\$100 LF \$1,000 CP					
	Shingle Creek Watershed Mgmt Commission	Late Filing of Economic Interest Statement due July 19, 2015	\$100 LF \$1,000 CP					

**CLOSED FILES**

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

**PROBABLE CAUSE  
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF DALE LUECK REGARDING WAGNER (ERIN) FOR MINNESOTA

On November 2, 2016, the Campaign Finance and Public Disclosure Board received a complaint submitted by Dale Lueck regarding Wagner (Erin) for Minnesota. Wagner for Minnesota is the principal campaign committee of Erin Wagner for the seat in the House of Representatives for district 10B.

The complaint alleges that the committee has been running a radio advertisement that does not include the required disclaimer, in violation of Minnesota Statutes section 211B.04. The complaint further alleges that a transcript of the radio advertisement is not provided on the campaign's website, in violation of Minnesota Statutes section 10A.38.

On November 4, 2016, the chair made a determination that the complaint and its attachments stated a prima facie violation of the disclaimer provision and the transcript requirement. On November 15, 2016, the Board received a response letter from the Wagner committee.

**Analysis**

Minnesota Statutes section 211B.04 requires a disclaimer to be included in any campaign material aired on broadcast media. The required form of the disclaimer is "Paid for by the [name] committee." Campaign material is defined by statute as "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election."

The complaint included as an attachment a live recording of the radio advertisement. In the advertisement, the candidate states "Please vote for me, Erin Wagner, on November 8th." The advertisement did not contain a disclaimer as recorded.

Minnesota Statutes section 10A.38 states that "A campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so." This requirement applies only to candidates who have signed a public subsidy agreement with the Board.

Board records show that Erin Wagner signed a public subsidy agreement with the Board for the 2015-2016 election segment. The complaint included a link to the candidate's campaign website. Posted on the website were two transcripts for radio advertisements, neither of which was the advertisement submitted as a recording. The Board has no record of a statement from Erin Wagner setting forth the reasons for not posting a transcript of the subject radio advertisement on her campaign website.



In her letter to the Board, Erin Wagner stated that the committee “had forgotten the disclaimer” on the radio ad. She further stated that a “disclaimer [was added] on the ad for the final two days of it running.” Regarding the transcript, Ms. Wagner provided that she “thought that [she] had put the transcript on the website, but with how busy [she] had gotten during the campaign ... [she] had not.” She further stated that “as soon as this was brought to my attention ... [the transcript was] put on [the website] immediately.”

Ms. Wagner also notes that for two of the three radio ads that she ran during the campaign, disclaimers were provided and the transcripts were listed on her campaign website. The third one “inadvertently omitted the disclaimer and the transcript.” She explains that she was “super busy campaigning at this point, this is the first campaign [she had] ever run, and it was an honest mistake.”

### **Order**

1. Probable cause exists to believe that Wagner (Erin) for Minnesota broadcast a radio advertisement without the required disclaimer, in violation of Minnesota Statutes section 211B.04.
2. Probable cause exists to believe that Waner (Erin) for Minnesota failed to provide a transcript for the subject radio advertisement on its website, in violation of Minnesota Statutes section 10A.38.
3. An investigation is ordered. No further discovery will be conducted.
4. Until the Board makes a public finding or enters into a conciliation agreement, this matter is subject to the confidentiality requirements of Minnesota Statutes section 10A.022, subdivision 5.

/s/ Daniel Rosen  
Daniel N. Rosen, Chair  
Campaign Finance and Public Disclosure Board

Date: January 4, 2017

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

**FINDINGS, CONCLUSIONS, AND ORDER IN THE MATTER OF THE COMPLAINT OF DALE LUECK  
REGARDING WAGNER (ERIN) FOR MINNESOTA**

On November 2, 2016, the Campaign Finance and Public Disclosure Board received a complaint submitted by Dale Lueck regarding Wagner (Erin) for Minnesota. Wagner for Minnesota is the principal campaign committee of Erin Wagner for the seat in the House of Representatives for district 10B.

The complaint alleged that the committee had been running a radio advertisement that did not include the required disclaimer, in violation of Minnesota Statutes section 211B.04. The complaint further alleged that a transcript of the radio advertisement was not provided on the campaign's website, in violation of Minnesota Statutes section 10A.38.

On November 4, 2016, the chair made a determination that the complaint and its attachments stated a prima facie violation of the disclaimer provision and the transcript requirement. On November 15, 2016, the Board received a response letter from the Wagner committee. Ms. Wagner provided additional information by email on November 16, 2016. At its meeting on January 4, 2017, the Board issued a probable cause determination in the matter, finding that probable cause existed to believe that violations of the disclaimer provision and the transcript requirement had occurred and ordering an investigation.

**Analysis**

Minnesota Statutes section 211B.04 requires a disclaimer to be included in any campaign material aired on broadcast media. The required form of the disclaimer is "Paid for by the [name] committee." Campaign material is defined by statute as "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election."

The complaint included as an attachment a live recording of the radio advertisement. In the advertisement, the candidate states "Please vote for me, Erin Wagner, on November 8th." The advertisement did not contain a disclaimer as recorded.

Minnesota Statutes section 10A.38 states that "A campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so." This requirement applies only to candidates who have signed a public subsidy agreement with the Board.

Board records show that Erin Wagner signed a public subsidy agreement with the Board for the 2015-2016 election segment. The complaint included a link to the candidate's campaign website. Posted on the website were two transcripts for radio advertisements, neither of which

was the advertisement submitted as a recording. The Board has no record of a statement from Erin Wagner setting forth the reasons for not posting a transcript of the subject radio advertisement on her campaign website.

In her letter to the Board, Erin Wagner stated that the committee “had forgotten the disclaimer” on the radio ad. She further stated that a “disclaimer [was added] on the ad for the final two days of it running.” Ms. Wagner states that the committee had spent approximately \$2400 running the advertisements before the disclaimer was added.

Regarding the transcript, Ms. Wagner provided that she “thought that [she] had put the transcript on the website, but with how busy [she] had gotten during the campaign ... [she] had not.” She further stated that “as soon as this was brought to my attention ... [the transcript was] put on [the website] immediately.”

Ms. Wagner also notes that for two of the three radio advertisements that she ran during the campaign, disclaimers were provided and the transcripts were listed on her campaign website. The third one “inadvertently omitted the disclaimer and the transcript.” She explains that she was “super busy campaigning at this point, this is the first campaign [she had] ever run, and it was an honest mistake.”

**Based on the above analysis, the Board makes the following:**

#### **Findings of fact**

1. The Wagner (Erin) for Minnesota committee broadcast a radio advertisement without a campaign disclaimer.
2. On June 6, 2016, Erin Wagner signed a public subsidy agreement for the Wagner (Erin) for Minnesota committee covering the 2015-2016 election segment.
3. The Wagner (Erin) for Minnesota committee did not provide a transcript for a radio advertisement on its website.
4. No statement setting forth the reasons for not providing a transcript of the radio advertisement on the campaign’s website was provided to the Board prior to the advertisement’s dissemination.

**Based on the analysis and the findings of fact, the Board makes the following:**

#### **Conclusions of law**

1. Wagner (Erin) for Minnesota violated Minnesota Statutes section 211B.04 when it broadcast a radio advertisement without including the required disclaimer

2. Wagner (Erin) for Minnesota violated Minnesota Statutes section 10A.38 when it failed to provide a transcript for a radio advertisement on its website or provide the Board with a statement setting forth the reasons for not doing so prior to the advertisement airing.

**Based on the analysis, findings of fact, and conclusions of law, the Board issues the following:**

**Order**

1. A civil penalty in the amount of \$300 is assessed against the Wagner (Erin) for Minnesota for violating the disclaimer requirement in Minnesota Statutes section 211B.04 and the transcript requirement in Minnesota Statutes section 10A.38.
2. The Wagner (Erin) for Minnesota is directed to forward to the Board payment of the civil penalty, by check or money order payable to the State of Minnesota, within 30 days of receipt of this order.
3. If the Wagner (Erin) for Minnesota does not comply with the provisions of this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
4. The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

/s/ Daniel Rosen  
Daniel N. Rosen, Chair  
Campaign Finance and Public Disclosure Board

Date: January 4, 2017

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

**IN THE MATTER OF THE INVESTIGATION**

**ORDER**

**OF THE DERRICK LEHRKE FOR HOUSE COMMITTEE**

On February 10, 2014, the Minnesota Campaign Finance and Public Disclosure Board received the Derrick Lehrke for House committee's 2013 year-end report of receipts and expenditures. The report stated that the committee's year-end cash balance, as of December 31, 2013, was \$1,292.21. On February 2, 2015, the Board received the committee's 2014 year-end report of receipts and expenditures. The report was submitted as a "no change statement", disclosed no contributions or expenditures, and listed a cash balance of \$0.00. The 2014 report also attempted to terminate the committee.

The Board contacted Derrick Lehrke on February 2, 2015, informing him that the committee could not be terminated without an amended report that disclosed how the funds available at the end of 2013 had been disbursed.

After numerous communications to Mr. Lehrke went unanswered the Board referred the matter to the Attorney General's Office on August 4, 2015, to seek an order compelling the filing of the amended report and to obtain a judgment against the committee and Mr. Lehrke for previously assessed late filing fees. On April 6, 2016, in the matter of the Campaign Finance and Public Disclosure Board v. Derick Lehrke and Derrick Lerhke for House, Court File No. 62-CV-15-7562, the Ramsey County District Court issued a summary judgment order in the Board's favor. The order compelled Mr. Lehrke and the committee to file an amended 2014 year-end report by May 1, 2016, documenting the disposition of the committee's funds and entered judgment against Mr. Lehrke and the committee for \$1,000 in late filing fees.

On January 15, 2016, the Board authorized an audit and investigation of the committee for the purpose of determining whether the committee's funds were used as permitted by Chapters 10A and 211B. The Board obtained the committee's 2013 and 2014 bank records and confirmed that the money appeared to have been used for purposes reasonably related to an election campaign.

Although subsequent communications have been sent to Mr. Lehrke requesting that a proper report be filed detailing the transactions shown in the bank records, no communications or reports have been received by the Board.

**Order**

The audit and investigation of this matter is closed and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5. The committee is administratively terminated as of December 31, 2014. The requirements that Derrick Lehrke or the committee file an amended termination report to properly disclose all contributions and expenditures and pay all outstanding late fees remain in place.

/s/ Daniel Rosen  
Daniel N. Rosen, Chair

Date: January 4, 2017

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

**ORDER**

IN THE MATTER OF THE STAFF REVIEW OF PAUL PEROVICH FOR SENATE:

On April 26, 2016, the Board initiated a staff review of the Paul Perovich for Senate committee. The matter arose as the result of a preliminary inquiry regarding the committee's 2015 year-end report of receipts and expenditures filed with the Board. The committee's 2015 year-end report, which was filed as a termination report, listed expenditures for office supplies, a laser printer, a computer, convention costs, and mileage reimbursements.

While the reported expenditures did not disclose any transactions that on their face constituted a violation of the Minnesota Statutes, the timing of the expenditures was inconsistent with a committee that intends to terminate. Additionally, a committee may not terminate without disposing of its assets in excess of \$100. Staff therefore informed the committee that it could not terminate until it had disposed of the capital assets (i.e., donated or sold the items).

The committee has now informed Board staff that it plans to stay active and open, and that the candidate plans to file for office again in the future. Based on the information provided by the committee, the Board issues the following:

**Order**

The staff review in this matter is dismissed.

/s/ Daniel Rosen  
Daniel N. Rosen, Chair  
Campaign Finance and Public Disclosure Board

Date: January 4, 2017

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

**ORDER**

IN THE MATTER OF THE STAFF REVIEW OF BRANDON D. ANDERSON FOR SD6:

On February 29, 2016, the executive director initiated a staff review of the Brandon D. Anderson for SD6 committee. The staff review was prompted by information on the committee's 2015 year-end report of receipts and expenditures, which was filed as a termination statement for the committee. The report disclosed that the committee had paid Katherine Avery, a committee volunteer, \$731.74 in 2015 for "Prior Year Unpaid Bill: deferred payment for transportation services during campaign."

The committee, however, had never reported owing any unpaid bills to Ms. Avery in prior years. The payment therefore raised questions regarding whether the committee had improperly used campaign funds to pay for activities that were not campaign related; had improperly used its funds to retroactively pay for services that originally were provided on a volunteer basis; or had inaccurately reported its expenditures during the 2012 campaign.

Mr. Anderson did not respond to any of the Board's letters, emails, or telephone calls asking for information about the matter. Board staff was able to contact Ms. Avery to discuss the payment. Ms. Avery stated that in 2012 when Mr. Anderson was running for office, she drove her personal car for the campaign in parades. Ms. Avery said that before the campaign began, she discussed payment with Mr. Anderson and he agreed that when the committee had sufficient funds, it would reimburse her for her transportation costs using the standard IRS mileage rate. Ms. Avery therefore kept contemporaneous records of her expenses and showed those records to Mr. Anderson. Public sources indicate that Mr. Anderson participated in at least 11 parades across senate district 6 during the campaign. Senate district 6 is located in northern Minnesota and is one of the state's largest senate districts.

Based on the information above, the Board concludes that the use of Brandon D. Anderson for SD6 committee funds to pay Ms. Avery mileage to attend parades in 2012 was for campaign-related activities. The committee, however, inaccurately reported its expenditures in prior years because it did not disclose the debt owed to Ms. Avery. The committee is not required to amend its prior year reports to include the unpaid bill because the committee now has disclosed this obligation and it has terminated its registration with the Board as of the date of its 2015 year-end report.

Based on the information provided by the committee, the Board issues the following:

**Order**

The staff review in this matter is dismissed.

/s/ Daniel N. Rosen  
Daniel N. Rosen, Chair  
Campaign Finance and Public Disclosure Board

Date: January 4, 2017