

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

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**March 7, 2018**  
**Blazing Star Room**  
**Centennial Office Building**  
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**MINUTES**

The meeting was called to order by Chair Flynn.

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

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

The meeting did not strictly follow the order of business set forth in the agenda.

**MINUTES** (January 9, 2018)

After discussion, the following motion was made:

Member Leppik's motion: To approve the January 9, 2018, minutes as drafted.

Vote on motion: Unanimously passed.

**CHAIR'S REPORT**

**A. Meeting schedule**

The next Board meeting is scheduled for 10 a.m. on Wednesday, April 4, 2018.

**EXECUTIVE DIRECTOR REPORT**

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 a few more committees and individuals had filed their 2017 reports since he prepared his memorandum. Mr. Sigurdson said that staff would begin tracking the percentage of timely filers for each program and would use those figures to determine which outreach methods were the most effective. Mr. Sigurdson stated that the lobbyist program currently had the highest rate of timely compliance.

Mr. Sigurdson then introduced the new assistant executive director, Megan Engelhardt. Ms. Engelhardt told members that she had come to the Board from the Office of Lawyers Professional Responsibility where, among her other duties, she conducted investigations and prepared advisory opinions. Members welcomed Ms. Engelhardt to her new position.

Mr. Sigurdson next told members that Gary Goldsmith and Joyce Larson would be retiring on May 1, 2018. Members reported the numerous compliments that they had received regarding the work of Mr. Goldsmith and Ms. Larson and discussed the fact that both Mr. Goldsmith and Ms. Larson would be greatly missed.

## **SUPPLEMENTAL ENFORCEMENT REPORT**

### **D. Waiver request – Citizens for Justice Anne McKeig**

Ms. Pope told members that the Citizens for Justice Anne McKeig committee was asking the Board to waive a \$1,000 late filing fee incurred for an untimely registration. In the waiver request, the committee's treasurer, Eric Day, stated that when he was preparing the committee's 2017 year-end report, he realized that the committee had never actually registered with the Board when the committee was formed in October 2017. By the time that the committee actually filed its registration, it had accrued the maximum late filing fee. Ms. Pope said that the Board had not granted any prior waiver requests for the committee.

Committee treasurer Eric Day then addressed the Board. Mr. Day said that the committee had prepared a registration form when it initially organized and that he believed that he had filed that form with the Board. Mr. Day stated, however, that he never actually filed the registration form. Mr. Day said that he believes that he failed to file the registration, and mistakenly believed that he had done so, because he was under a great deal of stress at the time due to his father's terminal cancer diagnosis. Mr. Day said that he filed the registration form as soon as he discovered the error.

After discussion, the following motion was made:

Member Rosen's motion:	To waive the \$1,000 late filing fee incurred by the Citizens for Justice Anne McKeig committee for an untimely registration.
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Vote on motion:	Unanimously passed.
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During the discussion of the regular enforcement report, the following motion was made:

Member Rosen's motion:	To consider the waiver request submitted by the Citizens for Justice Anne McKeig committee even though this matter was not placed on the agenda at least seven days in advance of the meeting.
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Vote on motion:	Unanimously passed.
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## **LEGISLATIVE RECOMMENDATIONS**

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 as directed at the November meeting, he had met with legislators and legislative staff to determine whether there was bipartisan interest in legislative recommendations from the Board. Members Leppik and Moilanen had attended some of these meetings. Mr. Sigurdson said that the reaction of the legislators generally had been positive and



## **2. Confirmation of lobbyist termination – Tom Liebe**

Ms. Pope told members Mr. Liebe's principal association, the Cooperative Network, had notified Board staff that Mr. Liebe had left his position with the organization on August 1, 2017. Staff then administratively terminated Mr. Liebe's lobbyist registration as of that date. Ms. Pope said that staff was asking the Board to confirm this administrative termination. Ms. Pope said that Mr. Liebe's lobbyist disbursements for 2017 were reported by the association's reporting lobbyist.

## **3. Confirmation of lobbyist termination – Jenna Duwenhoegger**

Ms. Pope told members that Ms. Duwenhoegger's principal association, the Nurse-Family Partnership, had notified Board staff that Ms. Duwenhoegger had left her position with the association on October 2, 2017, due to a departmental reorganization. The principal also stated that Ms. Duwenhoegger did not have any lobbyist disbursements during the last reporting period. Staff then administratively terminated Ms. Duwenhoegger's lobbyist registration as of October 2, 2017. Ms. Pope said that staff was asking the Board to confirm this administrative termination and to not require filing of the lobbyist disbursement report that was due on January 16, 2018.

## **4. Request to accept an unsigned lobbyist disbursement report and termination statement – Frank Forsberg and Greater Twin Cities United Way**

Ms. Pope told members that the Greater Twin Cities United Way (GTCUW) was asking the Board to accept an unsigned lobbyist disbursement report and a termination statement from its former employee Frank Forsberg. The GTCUW explained that Mr. Forsberg had reviewed these documents before he retired on December 31, 2017, but had left the state before the final versions were ready for signature.

After discussion, the following motion was made:

Member Swanson's motion: To grant all requests on the consent agenda.

Vote on motion: Unanimously passed.

## **B. Discussion items**

### **1. Request to withdraw lobbyist registration – Sarah Walker**

Ms. Pope told members that on February 8, 2018, Ms. Walker had registered as a lobbyist on behalf of the Veterans Resiliency Project. Within a week of registering, however, Ms. Walker had discovered an unexpected conflict of interest that would prevent her from lobbying for this principal. Ms. Pope said that Ms. Walker therefore was asking the Board to allow her to withdraw this lobbyist registration.

### **2. Request to withdraw candidate committee registration – Wharton (Jeffrey) for Minnesota**

Ms. Pope told members that Mr. Wharton had registered a committee for governor on March 20, 2017. In response to requests for a 2017 year-end report, Mr. Wharton had told staff that he no longer was running for governor and that he had not raised or spent any money during his campaign. Ms. Pope said that Mr. Wharton was asking the Board to allow him to withdraw his committee's registration. Mr.

Pope stated that approval of Mr. Wharton’s request would eliminate the need for the committee to file a 2017 year-end report.

**3. Request to withdraw candidate committee registration. – Balaski (Donavon) for House**

Ms. Pope told members that Mr. Balaski had registered a committee for a house seat on August 10, 2017. In response to requests for a 2017 year-end report, Mr. Balaski had told staff that he no longer was running for office and that he had raised and spent only \$50 during his campaign. Ms. Pope said that Mr. Balaski was asking the Board to allow him to withdraw his committee’s registration. Ms. Pope stated that approval of Mr. Balaski’s request would eliminate the need for the committee to file a 2017-year-end report.

**4. Request for administrative termination of candidate committee – Sharon Anderson**

Ms. Pope told members that Sharon Anderson had registered a committee for attorney general on January 1, 1982. Ms. Pope said that at the Board’s direction, staff has not attempted to secure a report from the committee for approximately ten years. Ms. Pope stated that Ms. Anderson recently had told staff that although she plans to run again for attorney general, she has never received any contributions from anyone other than herself and has never spent more than the \$300 filing fee for the office. Ms. Anderson also told staff that she believes that she does not have a committee. Ms. Pope said that because Ms. Anderson’s committee had never met the financial threshold necessary for registration of a committee and because Ms. Anderson does not believe that she has a committee, staff was asking the Board to administratively terminate Ms. Anderson’s committee registration.

After discussion, the following motion was made:

Member Rosen’s motion: To grant all requests on the discussion items agenda.

Vote on motion: Unanimously passed.

**C. 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>
Jeffrey Weber, Attorney General's Office	\$10 LFF	Annual EIS	Official did not timely receive notices sent to work address because he left that job at the end of 2017. Official filed statement as soon as he received notices forwarded by his former employer.	Member Swanson	To waive the late filing fee	Passed unanimously
Jane Youngkrantz, Kandiyohi SWCD	\$40 LFF	Annual EIS	Official encountered problems trying to file online but eventually created an account and believed that she had filed statement. Official had created account but never actually recertified statement. Official filed as soon as she learned that statement had	Member Swanson	To waive the late filing fee	Passed unanimously

			not been recertified. Official had no changes to report.			
Eric Klindt, Wilkin County Commissioner	\$45 LFF	Annual EIS	Official encountered problems trying to file online but eventually created an account and believed that he had filed statement. Official had created account but never actually recertified statement. Official contacted staff several times during process for help and filed as soon as he learned that the statement had not been recertified.	Member Swanson	To waive the late filing fee	Passed unanimously
Citizens for Denny McNamara	\$50 LFF	Pre- general special election report	Treasurer tried to file report before due date because she was leaving town, but the software did not have the pre-general special election report option available yet. Treasurer called for assistance on 1/31/18. Staff was unable to make the report option available that day because 1/31/18 was also the due date for 2017 year-end reports. Treasurer filed report as soon as she returned home when report option was available.	Member Swanson	To waive the late filing fee	Passed unanimously
Maiv PAC	\$350 LFF	2017 year- end report	Treasurer had personal difficulties that prevented her from filing report on time.	Member Rosen	To waive the late filing fee	Passed unanimously
Kanne (James) for House 16B	\$300 LFF	2017 year- end report	Treasurer filed report on due date but did not realize that she had re-filed the 2016 year-end report. Because treasurer believed she had filed report, she put it out of her mind. Treasurer filed correct report as soon as she understood what had happened. Treasurer also asks for consideration of her personal circumstances.	Member Rosen	To waive the late filing fee	Passed unanimously
Fillmore County DFL	\$275 LFF	2017 year- end report	Treasurer was new and did not know reporting requirements. Treasurer also thought that due date for her economic interest statement also applied to campaign finance reports. Treasurer could not consult previous treasurer because she had moved away and chair also was new.	Member Moilanen	To waive the late filing fee	Passed unanimously
Neighbors for Geoff Dittberner	\$25 LFF	2017 year- end report	Treasurer emailed report on due date but omitted a dot from the Board's email address. Treasurer received message saying that the original email was undeliverable. Treasurer sent report the next day.	Member Rosen	To waive the late filing fee	Passed unanimously
Neighbors for Ilhan (Omar)	\$50 LFF	2017 year- end report	Treasurer tried to upload report one day after due date but could not because software said that she was not treasurer of record no matter what version of her name she used. Treasurer tried to upload again the next morning and was successful even though she had not changed any information in the software.	No motion		
Gilbert (Randy) for Auditor	\$50 LFF	2017 year- end report	Candidate tried to file report by email but outgoing email was stuck in his outbox.	No motion		

**Informational Items**

**A. Payment of a late filing fee for 2017 year-end report of receipts and expenditures**

Ricky Englund Run for Senate, \$75  
Quinn Nystrom for MN, \$50  
Keep Judge Andrew Pearson, \$50  
Tom Saxhaug for State Senate, \$25

Minneapolis Regional Labor Federation, \$50  
Minn Thoroughbred Assn PAC, \$25  
Minn Young DFL, \$25  
Waste Management PAC of Minn, \$150

**B. Payment of a late filing fee for 2017 special election report**

Committee to Elect James Brunsgaard, \$50  
Melissa Wagner for House, \$50

**C. Payment of a late filing fees for 2016 pre-general election and year-end report of receipts and expenditures**

SEIU Local 26, \$2,000

**D. Payment of a late filing fee for failure to file 2016 pre-primary-election report of receipts and expenditures**

Lawrence Patwin (candidate did not register committee) \$83.80 from Revenue Recapture

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

John Lenczewski, MN Trout Unlimited, \$25

**F. Payment of a late filing fee for January 16, 2018, lobbyist disbursement report**

Kelsey Johnson, Iron Mining Assn of Minn, \$25  
Thomas Keliher, MN School Bus Operators, \$25

**G. Payment of a late filing fee for 24-hour notice of 2016 large pre-election contribution**

SEIU Local 26, \$1,000

**H. Payment of a civil penalty for false certification**

Branden Petersen, \$280

**I. Deposit to the General Fund**

33<sup>rd</sup> Senate District DFL, \$5  
Crow Wing County RPM, \$50  
Paul Thissen for Governor, \$89.11

**LEGAL COUNSEL'S REPORT**

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

**OTHER BUSINESS**

There was no other business to report.

**EXECUTIVE SESSION**

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

Probable cause determination in the matter of the complaint of Taylor regarding Scott Sanders for Representative Committee

Probable cause determination in the matter of the complaint of Qualy regarding the Libertarian Party of Minnesota and Emily Mellinger

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

Respectfully submitted,



Jeff Sigurdson  
Executive Director

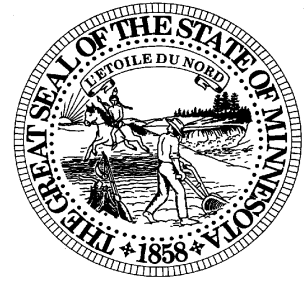
Attachments:

- Memorandum regarding executive director report
- Memorandum regarding legislative recommendations
- Memorandum regarding amended Affirmative Action Plan
- Probable cause determination in the matter of the complaint of Taylor regarding Scott Sanders for Representative Committee
- Probable cause determination in the matter of the complaint of Qualy regarding the Libertarian Party of Minnesota and Emily Mellinger
- Legal report



Minnesota

# *Campaign Finance and Public Disclosure Board*



**Date:** February 28, 2018

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

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

## **Status of Year-end Reports**

**Lobbying Program.** The lobbyist disbursement report covering the period of June 1 through December 31, 2017, was due on January 16, 2018. A total of 2,076 reports were due. Staff sent multiple e-mails to remind lobbyists of the reporting deadline, and phoned all lobbyists who had not filed by two days before the deadline. The extra effort paid off, as only 25 lobbyist reports (1.2%) were filed late. As of the date of this memo, there are two reports outstanding.

**Campaign Finance Program.** The year-end report of receipts and expenditures for 2017 was due on January 31, 2018. Reporting notices were mailed to 618 candidates, 318 political party units, 342 political committees and funds, and 46 independent expenditure committees and funds. Staff also sent multiple reminder e-mails, and again called all treasurers who had not reported prior to January 31<sup>st</sup>. In total 79 reports (5.9%) were not filed by the deadline. As of date of this memo, there are 17 candidate committees, 3 political party units, and 2 political committees with reports still outstanding.

**Economic Interest Program.** The 2017 annual recertification by public officials was due on January 29, 2018. There were 2,924 annual recertifications due. Unlike the campaign finance and lobbying programs, there is a 10-day grace period after the filing deadline before a late fee is applied. Staff sent multiple reminder e-mails and made phone calls before and after the deadline. From the number of bounced e-mails and phone numbers that were no longer in use it is clear that the Board database of contact information for public officials is not as good as the lobbying or campaign finance programs. Nonetheless, at the end of the grace period there were only 95 recertifications not completed (3.2%). As of the date of this memo, there are 46 public officials who need to recertify for 2017.

## **Personnel**

Megan Engelhardt accepted the position of assistant executive director for the Board, and started in the position on February 14, 2018. For the past 10 years Ms. Engelhardt has worked for the Minnesota Office of Lawyers Professional Responsibility. While in that position, Ms. Engelhardt investigated allegations of attorney misconduct, and provided training and guidance to attorneys on the Minnesota Rules of Professional Conduct. Ms. Engelhardt is a graduate of the William Mitchell College of Law, and received her undergraduate degree at Michigan State University.

Gary Goldsmith, who currently holds the position of senior legal analyst on a part-time basis, is retiring. His last day as a member of Board staff will be May 1<sup>st</sup>. During his time with the Board Mr. Goldsmith also served as assistant director and executive director.

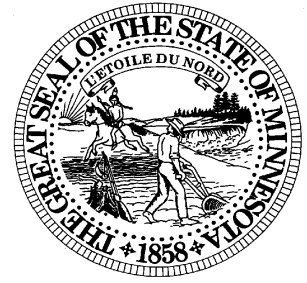
Joyce Larson, the campaign finance compliance officer, is also retiring effective May 1<sup>st</sup>. Ms. Larson is in her 23<sup>rd</sup> year as a member of Board staff.

The retirements of Mr. Goldsmith and Ms. Larson represent a major loss to the Board in terms of experience and institutional knowledge. Of even greater impact is the loss of their work ethic, the personal relationships and trust they have built with the regulated community, and their value as highly respected and well-liked co-workers.

The process to fill the compliance officer position will start immediately. The legal analyst position will be addressed somewhat later in the year.

Minnesota

*Campaign Finance and  
Public Disclosure Board*



**Date:** February 28, 2018

**To:** Members of the Legislature

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Legislative Recommendations

As directed by the Board at the November 2017 meeting, I have met with members of the legislature to determine if there is bipartisan interest in hearing legislative recommendations from the Board. The recommendations discussed included some parts of the proposed administrative rules developed by the Board. When they have been available, Mr. Moilanen and Ms. Leppik have attended the meetings. I am continuing to request meetings with members of the Board's policy committees in the House and Senate.

At the meetings I provided legislators with the attached memo which reviews the Board's requirement that there must be bi-partisan support in order for the Board to formally submit the recommendations to the legislature. I will provide a more detailed description at the Board meeting; but the reaction of legislators has been generally positive. There are always specific concerns, but if the recommendations are submitted it appears that there will be authors from both parties.

Legal staff for the Senate requested that Board staff provide the recommendations related to a two-tiered reporting system for the economic interest statement, and disclosure of spousal holdings in the form of statutory language. That draft language is also provided with this memo.

If the Board is prepared to formally provide the recommendations to the legislature for consideration it would be appropriate to make a motion to that effect. I would then draft a letter for the Chair's signature that would accompany the recommendations.

**Attachments**

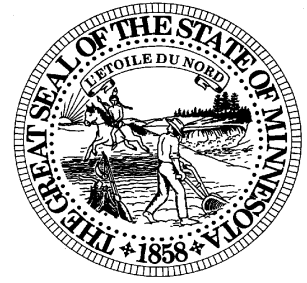
Memo to Legislators – Dated January 31, 2018

Draft language for economic interest statement recommendations

Minnesota

*Campaign Finance and  
Public Disclosure Board*

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**Date:** February 28, 2018

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Amended Affirmative Action Plan

Every two years, the Board and other state agencies must review and ratify their affirmative action plans. The Board's current plan was ratified on August 2, 2016, and is effective through July 31, 2018. The current plan includes the language from the Minnesota Department of Management and Budget's statewide policy prohibiting sexual harassment but does not expressly adopt that policy.

In December 2017, the Department of Management and Budget determined that agencies should expressly adopt the statewide sexual harassment prohibited policy. In response to this determination, language expressly adopting the statewide sexual harassment prohibited policy has been added to the Board's 2016-2018 Affirmative Action Plan. As required, the Board's executive director has signed the plan. The matter is before the Board for ratification of the amended plan.

In addition to adopting the statewide policy, all staff also has completed the sexual harassment prevention training developed by the Department of Management and Budget.

Attachment: Amended Affirmative Action Plan 2016-2018

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**  
**March, 2018**

**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
Roxana Bruins	Roxana Bruins for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	7/28/17	9/6/17			Personal Service obtained. Drafting default documents
Brenden Ellingboe	Ellingboe (Brenden) for House	Unfiled 2015 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	11/29/16	5/26/17			Hold by Board
Kirsten Johnson		Unfiled Economic Interest Statement due June 14, 2016	\$100 LF \$1,000 CP	1/17/17	5/26/17			Hold by Board
Tim Johnson		Unfiled Economic Interest Statement due June 14, 2016	\$100 LF \$1,000 CP	1/17/17	5/26/17			Board is reviewing first set of default judgment documents.
Christopher John Meyer	Meyer for Minnesota	2016 Year-End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	7/28/17	9/6/17			Placed on hold by Board

**CLOSED FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
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	12/30/16  8/18/17			Matter settled. Closed

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

**PROBABLE CAUSE  
DETERMINATION**

**IN THE MATTER OF THE COMPLAINT OF JEFFREY J. TAYLOR REGARDING THE SCOTT SANDERS FOR REPRESENTATIVE COMMITTEE**

On January 24, 2018, the Campaign Finance and Public Disclosure Board received a complaint submitted by Jeffrey Taylor regarding the Scott Sanders for Representative Committee. The Scott Sanders for Representative Committee is the principal campaign committee of Scott Sanders for the special election in District 23B. The complaint alleged the following violations:

1. The committee failed to report the cost of producing and mailing two campaign mailers on the committee's pre-primary report of receipts and expenditures which was filed with the Board on January 22, 2018. Failure to include all expenditures made by the campaign committee during the reporting period is a violation of Minnesota Statutes section 10A.20, subdivision 3.
2. The committee inaccurately reported the cost of radio advertisements as an unpaid bill. The complainant states that radio stations require prepayment for political advertising. Inaccurately reporting the payment status of a campaign expenditure would not comply with the reporting requirements of Minnesota Statutes section 10A.20, subdivision 3.
3. The committee treasurer certified the pre-primary report of receipts and expenditures as complete and accurate knowing that there were errors and omissions on the report. A treasurer that knowingly submits an incomplete and inaccurate report is in violation of Minnesota Statutes section 10A.025, subdivision 2.

On February 1, 2018, the vice chair made a determination that the complaint and its supporting attachments stated a prima facie allegation of a violation of the reporting requirements for the production and mailing of the campaign literature, and of knowingly filing an inaccurate or incomplete report. The vice chair further determined that the allegation that the committee inaccurately reported radio advertisement expenditures as unpaid obligations was based on speculation, and therefore did not state a prima facie violation of Minnesota Statutes section 10A.20.

The prima facie determination was provided to the complainant and the committee. On February 5, 2018, Mr. Taylor e-mailed the Board to acknowledge receipt of the prima facie determination and to state that he had confirmed with the radio station that political advertisements must be paid for in advance. On February 9, 2018, Amy Sanders, treasurer for the committee, contacted Board staff to discuss the prima facie determination and to ask for clarification on the proper reporting of expenditures. On February 13, 2018, Ms. Sanders, submitted a response for consideration at this hearing and an amended pre-primary report.

## Analysis

Minnesota Statutes section 10A.022, subdivision 3, paragraph (2), provides that when a member of the Board makes a finding that a complaint raises a prima facie violation, the full Board then must determine whether probable cause exists to believe an alleged violation that warrants an investigation has occurred.

The pre-primary report for the special election in District 23B covered the period from December 4, 2017, through January 15, 2018. Minnesota Statutes section 10A.20, subdivision 2, provides that a campaign committee must report all campaign expenditures that occurred during the reporting period. Minnesota Statutes section 10A.01, subdivision 9, provides that a campaign expenditure takes place when the committee "...incur[s] an obligation to pay for goods and services." Therefore, the committee was required to disclose the purchase of any campaign literature ordered by the committee prior to the January 15, 2018, report cutoff date. If an invoice for a purchase was not received by the report cutoff date, the treasurer should have disclosed an unpaid bill for the best estimate of the purchase cost provided by the vendor when the goods or services were ordered.

Ms. Sanders acknowledges that the committee's pre-primary report did not meet this requirement. Ms. Sanders states, "...the original report included all invoices that I had received by January 15 as well as expenses that were paid by a personal credit card...I honestly believed that expenditures were supposed to be reported when the invoice was received. I apologize for my lack of knowledge in this area but I can promise you this was just a mistake on my part." Ms. Sanders provided copies of invoices issued for the production and mailing of the subject campaign literature. All invoices were issued by the vendor after January 15, 2018. The amended report submitted by Ms. Sanders discloses \$9,720.01 in paid and unpaid bills for the cost of producing and mailing campaign literature. Based on the treasurer's admission and the amended report, the record here is sufficient to find probable cause to believe that the committee did not file a complete report as required by Minnesota Statutes section 10A.20.

When a committee becomes aware of an error or omission in a report previously filed with the Board Minnesota Statutes section 10A.025, subdivision 4, requires the committee to file an amended report within ten days of becoming aware of the inaccuracy. Submission of an amended report that accurately corrects the error or omission resolves a violation of the reporting requirements in Minnesota Statutes section 10A.20. The amended report submitted by the Sanders committee now accurately reports the cost of producing and mailing the campaign literature identified in the complaint.

The statement provided by Ms. Sanders and the date of the invoices related to the campaign literature provide no basis to believe that the treasurer knowingly omitted the expenditures from the pre-primary report. Therefore, the record here does not establish probable cause to believe that the pre-primary report was falsely certified in violation of Minnesota Statutes section 10A.025, subdivision 2.



## Order

1. The allegation that the Scott Sanders for Representative Committee filed an incomplete and inaccurate pre-primary report of receipts and expenditures for the special election in District 23B is dismissed because although there is probable cause to believe that this violation occurred, no further investigation is warranted due to the committee's filing of an amended report.
2. The allegation that the treasurer of the Scott Sanders for Representative Committee knowingly certified an inaccurate or incomplete report in violation of Minnesota Statutes section 10A.025, subdivision 2, is dismissed for lack of probable cause.

/s/ Carolyn Flynn  
Carolyn Flynn, Chair  
Campaign Finance and Public Disclosure Board

Date: March 7, 2018

**State of Minnesota  
Campaign Finance and Public Disclosure Board**

**PROBABLE CAUSE  
DETERMINATION**

**IN THE MATTER OF THE COMPLAINT OF MICHAEL QUALY REGARDING THE LIBERTARIAN PARTY OF MINNESOTA AND EMILY MELLINGEN**

On February 1, 2018, the Campaign Finance and Public Disclosure Board received a complaint submitted by Michael Qualy regarding the Libertarian Party of Minnesota (LPMN) and Emily Melligen, the party's candidate in the special election for the seat in Senate District 54. The complaint alleged the following violations:

1. The LPMN violated the earmarking provisions in Minnesota Statutes section 10A.16 by using a GoFundMe page to solicit and accept contributions with the express or implied condition that the contributions be directed to Ms. Melligen's campaign.
2. The LPMN and Emily Melligen circumvented the recordkeeping provisions in Chapter 10A and the prohibition against accepting anonymous contributions by not obtaining required address and employer information from people donating through the GoFundMe page.
3. The LPMN violated Minnesota Statutes section 211B.04 by not including the words "Prepared and paid for" and an address in the disclaimer on the GoFundMe page.

On February 8, 2018, the Board vice chair concluded that the complaint was sufficient to state a prima facie violation with respect to the earmarking and disclaimer allegations but was not sufficient to state a prima facie violation with respect to the circumvention and recordkeeping allegations. The vice chair therefore dismissed the circumvention and recordkeeping claims.

**Analysis**

Minnesota Statutes section 10A.022, subdivision 3, paragraph (2), provides that when a member of the Board makes a finding that a complaint raises a prima facie violation, the full Board then must determine whether probable cause exists to believe an alleged violation that warrants an investigation has occurred.

The complaint here first alleges that the LPMN violated the earmarking prohibition in Minnesota Statutes section 10A.16. Minnesota Statutes section 10A.16 provides as follows:

An individual, political committee, political fund, principal campaign committee, or party unit may not solicit or accept a contribution from any source with the express or implied condition that the contribution or any part of it be directed to a particular candidate other than the initial recipient.

To support the earmarking claim, the complaint quotes language from the GoFundMe page that states, "This GoFundMe page was created by the LPMN and to be clear donations will be going to the candidates (Emily) campaign committee."

In response to this allegation, the LPMN first argues that the party unit did not actually create the GoFundMe page. Instead, the LPMN maintains that an individual created the page on his own initiative for the Mellingén committee. The individual who created the page, however, is the deputy treasurer of the LPMN. In addition, the LPMN's response shows that the party unit chair was deeply involved in discussions about the final wording and organization of the GoFundMe page. Given the degree of party involvement described in the LPMN's response, the record here is sufficient to find probable cause to believe that the LPMN created the GoFundMe page.

In its response, the LPMN also explains that the contributions collected through the GoFundMe page went directly to the Mellingén committee and that the LPMN did not receive any of the contributed funds. Candidate Mellingén therefore was the initial recipient of the contributions solicited and accepted through the GoFundMe page. Because the GoFundMe page did not solicit or accept contributions with the condition that they be directed to a candidate other than the initial recipient, the record here does not establish probable cause to believe that the LPMN violated the earmarking statute.

The complaint next alleges that the GoFundMe page did not include the disclaimer required for campaign material. Minnesota Statutes section 211B.04 provides that campaign material must include a disclaimer that is substantially in the form specified in the statute. For material prepared and paid for by a person or committee other than a principal campaign committee, the statute states that the required form of the disclaimer is "Prepared and paid for by the ..... committee, .....(address)." Minnesota Statutes section 211B.04 further provides that "[i]f the material is produced and disseminated without cost, the words "paid for" may be omitted from the disclaimer."

The GoFundMe page stated that it was created by the LPMN. The phrase "created by" is substantially in the form required by the statute because the meaning of this phrase is nearly identical to the meaning of the phrase "prepared by." In addition, as the LPMN noted in its response, the creator of the GoFundMe page donated his services and the GoFundMe page did not cost anything to post. Consequently, the party unit was allowed to omit the words "paid for" from the disclaimer. The omission of the party unit's address from the disclaimer, however, violated the statutory requirements. The record therefore is sufficient to establish probable cause to believe that the LPMN violated Minnesota Statutes section 211B.04.

The LPMN argues that it viewed the GoFundMe page as a payment processing page that linked to other websites and Facebook pages. Minnesota Statutes section 211B.04 does have an exception for "online banner ads and similar electronic communications that link directly to an online page that includes a disclaimer." The GoFundMe page did have a link to the Mellingén campaign webpage. The Mellingén campaign webpage, however, was prepared by the Mellingén campaign, not the LPMN. Consequently, the disclaimer on the Mellingén campaign webpage would not have been correct for the LPMN's GoFundMe page. The LPMN does not

cite any other website that contains the required disclaimer and also links to the GoFundMe page.

When the Board determines that there is probable cause that a violation has occurred, the Board also must determine whether the violation warrants a formal investigation. Minnesota Rules part 4525.0210, subpart 5, provides that the Board must consider the following factors when making this determination:

[T]he 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.

Here, the Board concludes that no formal investigation of the disclaimer violation is warranted. There is no other evidence relevant to this violation that could be discovered if the Board were to order a formal investigation. In addition, the partial disclaimer on the GoFundMe page was sufficient to show that the LPMN was responsible for the page even though the omitted address violated the statutory requirements. Finally, the LPMN's response shows that the party unit did not intend to hide its identity as the page's creator, that the party unit believed it had complied with the disclaimer requirements, and that the party unit now is aware of the correct disclaimer requirements. For these reasons, the disclaimer violation in this matter does not warrant a formal investigation.

### **Order**

1. The allegation that the Libertarian Party of Minnesota solicited or accepted earmarked contributions in violation of Minnesota Statutes section 10A.16 is dismissed for lack of probable cause.
2. The allegation that the Libertarian Party of Minnesota violated the disclaimer requirements in Minnesota Statutes section 211B.04, is dismissed because although there is probable cause to believe that this violation occurred, no further investigation is warranted.

/s/ Carolyn Flynn  
Carolyn Flynn, Chair  
Campaign Finance and Public Disclosure Board

Date: March 7, 2018