

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

.....  
**October 7, 2020**

**Meeting conducted remotely though Webex due to COVID-19 pandemic**

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**MINUTES**

The meeting was called to order by Chair Haugen.

Members present: Flynn, Haugen, Leppik, Rashid, Rosen (absent during waiver requests due to technical difficulties), Swanson

Others present: Sigurdson, Engelhardt, Olson, Pope, staff; Hartshorn, counsel (arrived during enforcement report)

**MINUTES** (September 9, 2020)

After discussion, the following motion was made:

Member Flynn's motion:	To approve the September 9, 2020, minutes as drafted.
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Vote on motion:	A roll call vote was taken. All members voted in the affirmative (Rashid abstained).
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**CHAIR'S REPORT**

**A. 2020 meeting schedule**

The next Board meeting is scheduled for 10:00 a.m. on Friday, November 6, 2020.

**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 campaign finance reports for political committees and funds, state party units, legislative caucuses, and appellate court judicial candidates were due on September 22, 2020, and that only four reports remained outstanding. Mr. Sigurdson said that staff had done the mailing for the next campaign finance report, which was due on October 26, 2020. Mr. Sigurdson stated that only about 20 people had attended the most recent compliance training class offered through Webex. Previous classes had been attended by over 50 people per session. Mr. Sigurdson said that given this decline in attendance, staff would not offer any additional online training until early in 2021.

### **A. Report on political contribution refunds issued in 2019**

Mr. Sigurdson told members that the Department of Revenue had issued a report on the use of the Political Contribution Refund (PCR) Program in 2019 by candidates and party units. Mr. Sigurdson briefly reviewed the amounts of refunds that had been issued in total, for contributions to candidates from the major political parties, and for contributions to party units.

### **B. Update on legislative recommendations for lobbyist program**

Mr. Sigurdson told members that he had met with a task force from the Minnesota Governmental Relations Council (MGRC) on September 11, 2020, to discuss the legislative recommendations for the lobbyist program. Mr. Sigurdson said that the MGRC had provided valuable feedback on its two primary issues of concern. The first issue was the need to set up new time management systems so that lobbyists could determine which matters constituted 25% of their efforts. Mr. Sigurdson said that the MGRC had explained that the time spent on an issue alone did not always convey the importance of that issue to a principal because some minor efforts were more time consuming than other more important efforts. The second area of concern was having to report bill numbers. Mr. Sigurdson said that proposals often are included in many bills to increase their odds of passage. In addition, individual proposals often are adopted as part of an omnibus bill, which includes many other topics. Mr. Sigurdson also pointed out that tracking lobbying efforts by bill number requires expertise that the average person may not have.

Kathy Hahne from the MGRC then addressed the Board. Ms. Hahne stated that the task force included members who worked for a wide variety of principals to ensure that the group could give a comprehensive response to the proposals. Ms. Hahne answered questions from members and thanked the Board for the opportunity to respond to the legislative recommendations.

## **ENFORCEMENT REPORT**

### **A. Discussion item**

#### **1. Duluth DFL (20575) – Late fees and civil penalty for reports of receipts and expenditures**

Mr. Olson told members that the Duluth DFL had incurred the maximum \$1,000 late filing fee and \$1,000 civil penalty for its 2016 year-end report and the maximum \$1,000 late filing fee for its 2017 year-end report. Mr. Olson said that no civil penalty was imposed for the 2017 year-end report because the matter had been referred to the attorney general's office before certified letters were sent regarding the failure to file that report. Mr. Olson stated that at the August 2020 meeting, the Board had adopted findings resolving an investigation of the Duluth DFL and that those findings had discussed in detail the problems that the party unit had encountered with its former treasurer. Mr. Olson said that the party unit had selected a new treasurer, Kelli Latuska, in June 2017.

Mr. Olson stated that the Duluth DFL was asking the Board to waive the \$3,000 owed for the 2016 and 2017 year-end reports. Mr. Olson stated that in the waiver request, the party unit's attorney, David Zoll, explained that the former treasurer repeatedly had assured the Duluth DFL that she would promptly file the 2016 year-end report. Mr. Zoll explained that once Ms. Latuska obtained access to the party unit's financial records in 2017, it was clear that there was a substantial cash balance discrepancy, the former treasurer would not cooperate with efforts to resolve the reporting issues, and Ms. Latuska was not comfortable certifying a report as accurate without confirming its accuracy. Mr. Olson said that the

request also pointed out that the Board had already imposed a \$1,500 civil penalty against the Duluth DFL for being affiliated with a person who falsely certified a campaign finance report.

Mr. Olson told members that the party unit had reported a cash balance of \$1,343 as of July 20, 2020, and that the reported balance did not account for the \$1,500 civil penalty imposed by the Board in August. Mr. Olson stated that in November 2006 the party unit had been granted a waiver of \$3,500 in late filing fees and civil penalties for its 2003 year-end and 2004 pre-primary and pre-general reports because there was a transition between treasurers and notices regarding the reports had been sent to the former treasurer. Mr. Olson told members that the party unit had not been granted a waiver of any late filing fees or civil penalties since then.

David Zoll, attorney for the Duluth DFL, then addressed the Board. Mr. Zoll told members that the findings in the investigation had ordered the Duluth DFL to pay a \$1,500 civil penalty for being affiliated with someone who filed a false report. Mr. Zoll argued that the party unit therefore already had been penalized for the events giving rise to the late 2016 and 2017 reports. Mr. Zoll then answered questions from members.

After discussion, the following motion was made:

Member Flynn’s motion: To waive the \$1,000 late fee and the \$1,000 civil penalty owed for the 2016 year-end report.

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

**B. Waiver requests**

Name of Candidate or Committee	Late Fee & Civil Penalty Amount	Reason for Fine	Factors for waiver and recommended action	Board Member's Motion	Motion	Vote on Motion
Minnesota Realtors Political Action Committee (70006)	\$200 LFF	June 2020	Person responsible for preparing the reports was out of office for over a month while ill with COVID-19. Reports were due 6/15/20 and were filed 6/25/20 and 6/26/20, respectively. MN Realtors PAC reported cash balance of \$948,800 as of 7/20/20. REALIEF has not reported any financial activity since it registered in Sept. 2018.	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative (Rosen absent).
REALIEF (41213)	\$225 LFF	June 2020	RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative (Rosen absent).

51st Senate District RPM (20424)	\$200 LFF	2020 Pre-primary	Treasurer had medical issues that made it difficult to complete and file report. Report was due 7/27/20 and filed 8/2/20. Party unit reported cash balance of \$1,263 as of 7/20/20. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative (Rosen absent).
Jeanne Massey (2267)	\$75 LFF	1st 2020 Lobbyist	Report was completed on time and lobbyist thought report was filed but it was only saved rather than submitted. Report was due 6/15/20 and filed 6/18/20 after error was discovered. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative (Rosen absent).
Senator (John) Marty Volunteer Committee (11880)	\$50 LFF	2020 Pre-primary	Treasurer mistakenly initialized new reporting year in CFR software on due date and then was unable to file report. Report was due 7/27/20 and filed following day after treasurer contacted Board staff. Committee reported cash balance of \$21,126 as of 7/20/20. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative (Rosen absent).
13th Senate District DFL (20505)	\$650 LFF	2020 Pre-primary	Treasurer thought local party units only filed year-end report. Report was due 7/27/20 and filed 8/14/20. Party unit reported cash balance of \$588 as of 7/20/20. RECOMMENDED ACTION: Reduce LFF to \$100	Member Leppik	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative (Rosen absent).
Torkelson (Paul) for State Representative (16697)	\$50 LFF	Pre-primary 24-hour notice	Large contribution received on Friday and notice filed on Monday. Candidate thought weekends were not counted, which is correct if notice is filed in person; electronic notices must be filed within 24 hours of receipt of contribution. Committee reported cash balance of \$10,228 as of 7/20/20. RECOMMENDED ACTION: None	No motion		

Carpenters Local 930 PAC (30600)	\$50 LFF	2020 Pre- primary	Report was filed one day late due to oversight by treasurer. Only activity disclosed on report was \$399 in non-itemized contributions. Fund reported cash balance of \$798 as of 9/15/20. RECOMMENDED ACTION: None	No motion		
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**C. Informational items**

**1. Payment of civil penalty for corporate contribution**

Cragun Corporation, \$400

**2. Payment of civil penalty for disclaimer violation**

Reed Perkins for Senate District 1, \$100

**3. Payment of late filing fee for 2020 pre-primary report of receipts and expenditures**

66A House District RPM, \$200  
 53<sup>rd</sup> Senate District DFL, \$200  
 Committee to Elect John Hoffman, \$50  
 Right Now Minnesota, \$50  
 Larkin Hoffman Political Fund, \$50  
 TakeAction Political Fund, \$50

**4. Payment of late filing fee for 2020 1<sup>st</sup> quarter report of receipts and expenditures**

Constitution Party of Minnesota, \$250

**5. Payment of late filing fee for 2019 year-end report of receipts and expenditures**

Rebecca Peichel for House, \$225

**6. Payment of late filing fee for 2018 year-end report of receipts and expenditures**

Fateh (Omar) for House LLC, \$1,000  
 Rebecca Peichel for House, \$225

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

Rebecca Peichel for House, \$50

**8. Payment of late filing fee for lobbyist disbursement report due 6/15/2020**

Simon Opatz, \$225  
Monica Meyer, \$125  
Matthew Benda, \$125  
Joseph Weber, \$100  
Heather Corcoran, \$75  
Cory Bennett, \$75  
Carol Overland, \$50  
William Amberg, \$50  
Jonathan Curry, \$50  
Dorian Grilley, \$50  
David Anderson, \$25  
Jeffery Anderson, \$25

**9. Payment of late filing fee for 2019 annual EIS**

Chester Raguse, \$20

**10. Forwarded anonymous contribution**

Pam Myhra for House, \$60

**PRIMA FACIE DETERMINATION**

Ms. Pope presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Ms. Pope told members that when the Board chair determines that a complaint does not state a prima facie violation, the chair must dismiss the complaint without prejudice. After a dismissal, the matter is public and the dismissal is reported to the full Board for informational purposes at the next regularly scheduled meeting. Ms. Pope said that since the last meeting, Chair Haugen had determined that a complaint filed by Greg Laden regarding the Perry Nouis for Minnesota committee had not stated a prima facie violation of any provision under the Board's jurisdiction.

Ms. Pope told members that the complaint alleged that the Nouis committee had signs and a website that indicated that Mr. Nouis was the incumbent representative for the district rather than a candidate for that office. The complaint argued that the signs and the website violated the provisions in Minnesota Statutes section 211B.03 regarding the use of the term "re-elect" by nonincumbents. Ms. Pope said that the complaint also may have alleged a violation of Minnesota Statutes section 211B.06, which prohibits the dissemination of false campaign material.

Ms. Pope stated that although the Board has jurisdiction to investigate some violations of Minnesota Statutes Chapter 211B, it does not have jurisdiction to investigate the violations of Minnesota Statutes sections 211B.03 or 211B.06 alleged in the complaint. Ms. Pope said that the chair therefore concluded that the complaint did not allege a prima facie violation of any statute under the Board's jurisdiction and dismissed it without prejudice.

**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 grid on the legal report. Mr. Hartshorn told members that there would be movement after the November election on the new cases added to the grid.

**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 chair had the following to report into regular session:

Probable cause determination in the matter of the complaint of the Senate Victory Fund regarding Erin Murphy for Senate

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

Respectfully submitted,



Jeff Sigurdson  
Executive Director

Attachments:

Executive director's report

Memorandum regarding prima facie determination – no violation

Legal report

Probable cause determination in the matter of the complaint of the Senate Victory Fund regarding Erin Murphy for Senate



# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** September 30, 2020

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Executive Director's Report

**Campaign Finance Reports:** The 4th report of receipts and expenditures for political committees, political funds, and political party state central committees and legislative caucuses was due on September 22, 2020. The Board received 376 reports by the filing deadline, which is about 90% of the reports expected. Political funds are not required to file a report if the fund had no financial activity since the last reporting period.

The next report due is the pre-general election report. This reporting period includes all candidates on the state general election ballot. The report is due October 26, 2020.

**Campaign Finance Training:** Staff conducted an evening WebEx compliance training class on September 23, 2020. About 20 candidates and treasurers attended the training, which is down considerably from the average of over 50 attendees at prior WebEx training classes. Given the decline in attendance, and because a recording of a WebEx compliance training is available for viewing on the Board's website, live training sessions will be suspended until 2021.

**Political Contribution Refunds in 2019:** The political contribution refund (PCR) program is administered by the Department of Revenue as provided in Minnesota Statutes section 290.06. The program provides that an eligible Minnesota voter who makes a cash contribution to a candidate who has signed the public subsidy agreement, or to a major or minor political party unit, may apply for a refund from the Department of Revenue. The maximum amount that may be refunded in a calendar year is \$50 per person, or \$100 per married couple. The Department of Revenue tracks refund so that no individual receives more than a \$50 refund in a calendar year.

The Campaign Finance Board provides a computer file to the Department of Revenue that lists all candidate committees that have a current public subsidy agreement on file and all political party units registered with the Board. The Department of Revenue uses that information to verify that the donor gave to a candidate or party unit eligible to issue a PCR receipt. The Board also provides paper PCR receipts to eligible candidates and party units and has developed the Campaign Finance Reporter software so that the software can be used to generate a PCR receipt.



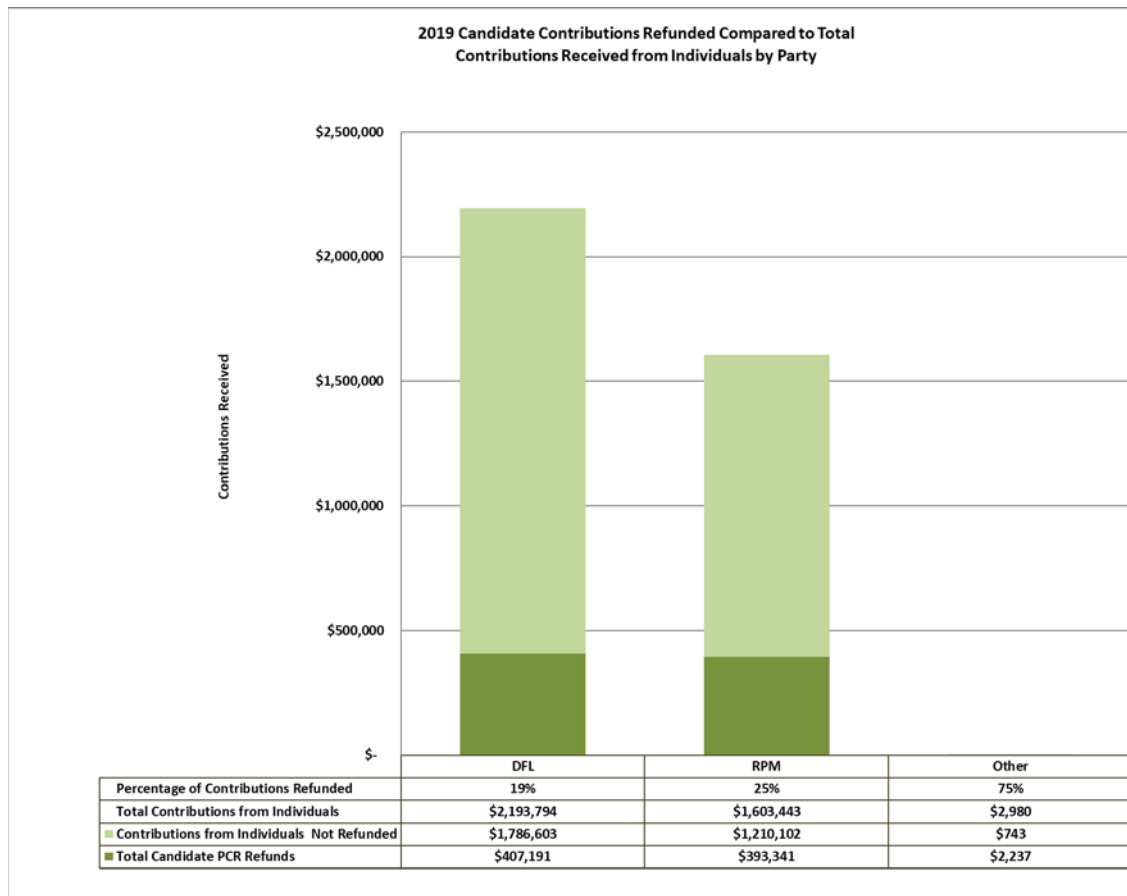
In August of each year the Department of Revenue reports to the Board the number of PCR refunds, and the total value of the refunds, issued to donors in the prior calendar year. The report provides the refund totals for individual candidate committees and political party units. The report is posted on the Board’s website at: <https://cfb.mn.gov/citizen-resources/board-programs/public-subsidy-of-campaigns/historical-use-of-public-subsidy-program/>. On the website there are separate reports for candidates and party units for the years 2013 through 2019.

The Board compares the PCR refunds issued for contributions to candidates and political party units to the contributions disclosed on the reports of receipts and expenditures filed with the Board. The comparison is used to verify that the value of the refunds issued to contributors to a candidate or party unit do not exceed the contributions reported as received by that same candidate or party unit.

In 2019 the Department of Revenue issued 35,293 refunds with a total value of \$2,366,276. Of that amount \$802,769 was issued for contributions made to candidates, and \$1,563,507 was issued for contributions to political parties.

Consistent with PCR refunds issued in 11 of the past 13 years, contributors to DFL candidates received more refunds, however the percentage of contributions from individuals refunded by the Department of Revenue was higher in 2019 for Republican candidates, as seen in Figure 1.

**Figure 1**



Historically, Republican party units have issued more PCR refunds than DFL party units, and that continued to be the case in 2019. Contributors to Republican party units received \$805,696 in refunds, contributors to DFL party units received \$752,308 in refunds.

The 2019 reports for PCR refunds issued for candidate committees and political party units are attached to this report.

**Legislative Recommendations for the Lobbying Program:** On September 11, 2020, I met via Zoom with members of the Minnesota Governmental Relations Council (MGRC) task force appointed for the purpose of reviewing and responding to the Board's legislative proposal for the lobbyist program. The members of the task force had several questions and concerns, but from my perspective the objections raised mainly related to two areas of the recommendations; how will a lobbyist determine which actions on behalf of a principal required at least 25% of the total effort for the principal and therefore must be reported, and whether reporting a bill or administrative rule revisor number is providing useful information to the public.

The members of the task force provided that very few lobbyists track their time. Instead contract lobbyists are usually paid a retainer fee for services provided. Setting up a time tracking system equivalent to those commonly used by attorneys would be, in their view, cost prohibitive and unduly burdensome. Further, the task force is concerned that using time alone to determine the 25% threshold could be misleading. For example, a principal may have had two major goals for the session, but using time alone as the standard could lead to a lobbyist reporting a time consuming, but relatively trivial effort to add a minor amendment to a piece of legislation instead of those goals.

From my perspective the proposed legislation does not require the use of a time tracking system. For all types of lobbying (administrative, legislative, metropolitan government, and Public Utilities Commission) the recommendations provide that "[t]he lobbyist must report a reasonable, good faith estimate of the total percentage of time spent on each of the actions listed . . . ." Nonetheless, time is the measuring stick used in the recommendations. A different approach could be to acknowledge that time alone is not the only factor in identifying significant issues for a principal, and to create a different method for identifying those issues. The reference to "percentage of time" could be replaced with language that required a lobbyist to report in retrospect the four most important issues for the principal, regardless of whether an issue was dealt with quickly, and therefore would not be identified if time were the only measurement used, or if a minor issue dragged on for the entire session.

The second major concern is that the recommendations currently require the lobbyist to identify the bill number, administrative rule revisor number, Public Utilities Commission docket number, or metropolitan governmental unit ordinance number that met the 25% of lobbying threshold. Members of the MGRC task force felt emphasis on specific bill numbers would not be particularly useful public disclosure, as many bills are folded into omnibus bills that are remarkably broad in subject matter, or the key language of interest to the principal is moved into multiple bills in an effort to be included in a bill that moves forward.

Board members may recall from prior discussions of the recommendations that I have expressed some reservations in using bill numbers for identifying significant lobbying efforts. Using bill numbers could obscure the issues of concern to the principal because it requires the public to know what was in the bill. Even immediately after a legislative session identifying subjects within a given bill requires specialized knowledge. Over the passage of time, it would require significant research to understand the content of the bills reported by the lobbyist.

One alternative approach would be to have lobbyists identify the specific subjects that were of major importance to a principal. My concern is that subject descriptions would be too broad, and would amount to little more than a repeat of the subjects of interest provided when the lobbyist registered for the principal.

I'm continuing to refine the legislative proposal for lobbying, and to the extent possible address the concerns from the MGRC task force. I intend to provide the Board with a modified version of the lobbying proposal at the November meeting. A cover memo and draft statutory language for the lobbying program legislative recommendations considered by the Board last year are available for review at: [https://cfb.mn.gov/pdf/legal/Lobbying\\_Proposal.pdf](https://cfb.mn.gov/pdf/legal/Lobbying_Proposal.pdf)

**Attachments**

2019 PCR Refunds by Candidate Committees

2019 PCR Refunds by Political Party Units



# MINNESOTA CAMPAIGN FINANCE BOARD

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**DATE:** September 30, 2020  
**TO:** Board members  
**FROM:** Jodi Pope, Legal/Management Analyst **TELEPHONE:** (651) 539-1183  
**RE:** Prima facie determination 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 a 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 a 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 complaint was dismissed by the chair and the prima facie determination is provided here as an informational item to the other board members. No further action of the Board is required.

## **Complaint regarding Perry Nouis**

On September 15, 2020, the Board received a complaint submitted by Greg Laden regarding the Perry Nouis for Minnesota committee. Perry Nouis for Minnesota is the principal campaign committee of Perry Nouis, a candidate for Minnesota House District 44A.

The complaint alleged that the Nouis committee had signs and a website that indicated that Mr. Nouis was the incumbent representative for the district rather than a candidate for that office. The complaint argued that the signs and the website violated the provisions in Minnesota Statutes section 211B.03 regarding the use of the term "re-elect" by nonincumbents. The complaint also may have alleged a violation of Minnesota Statutes section 211B.06, which prohibits the dissemination of false campaign material.

Although the Board has jurisdiction to investigate some violations of Minnesota Statutes Chapter 211B, it does not have jurisdiction to investigate the violations of Minnesota Statutes sections 211B.03 or 211B.06 alleged in the complaint. On September 16, 2020, the chair therefore concluded that the complaint did not allege a prima facie violation of any statute under the Board's jurisdiction and dismissed the complaint without prejudice.

### Attachments:

Complaint  
Prima facie determination

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD  
October 2020**

**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
Sandra (Sandi) Blaeser		2018 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP	9/23/20				File received from Board 9/11/2020
		2019 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP					
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures	\$1,000 LFF \$1,000 CP	3/6/18	8/10/18			Removed from hold 9/14 at Board's request.
		Unpaid late filing fee on 10/31/16 Pre- General Election Report	\$50 LFF					
Kelly Gunderson		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/23/20				
Beau Hullerman		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/23/20				
Tim Johnson		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/23/20				



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

**PROBABLE CAUSE  
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF SENATOR PAUL GAZELKA REGARDING THE ERIN MURPHY FOR SENATE COMMITTEE

**Background**

On September 22, 2020, the Campaign Finance and Public Disclosure Board received a complaint submitted by Senator Paul Gazelka, in his role as chair of the Senate Victory Fund, regarding the Erin Murphy for Senate committee. Erin Murphy for Senate is the principal campaign committee of Erin Murphy, a candidate for Minnesota Senate District 64.

The complaint alleges violations of Minnesota Statutes section 10A.27, subdivision 9, which prohibits a principal campaign committee from making a contribution to another candidate's principal campaign committee, and Minnesota Statutes section 10A.25, subdivision 3a, which prohibits candidates who have signed the public subsidy agreement from making independent expenditures. Ms. Murphy signed the public subsidy agreement on October 2, 2019. The complaint alleges that the Murphy committee is seeking to hire and pay campaign staff who will work at the direction of the Murphy committee on behalf of other Minnesota state-level candidates. The complaint included copies of job postings for paid campaign workers. The postings state:

Through the 2020 General Election, Erin Murphy for State Senate will be working to keep Minnesota blue in statewide races, and to help create a State Senate majority that can take action on the urgent issues facing our state. To do so, the campaign is building a strong relational organizing program that will work to increase turnout across CD 4, recruit SD 64 volunteers to call Minnesotans across the state, and mobilize Erin's past base to support candidates in contested Senate races.

The complaint alleges that when the Murphy committee hires individuals for these positions the committee will be making expenditures to support candidates in contested Senate races in Minnesota. The complaint alleges that those expenditures would violate the cited provisions of Chapter 10A.

On September 25, 2020, the Board chair determined that the allegations in the complaint stated a prima facie violation of Minnesota Statutes sections 10A.27, subdivision 9, and 10A.25, subdivision 3a. The complainant and legal counsel for the Murphy committee were provided the prima facie determination on September 25, 2020.

On September 28, 2020, the Murphy committee responded to the complaint. The response states that the Murphy committee has not made any contributions to other candidates nor made any independent expenditures supporting other candidates.

The Murphy committee explains that when Ms. Murphy learned that she would not have a primary opponent in the 2020 primary election, she wanted to shift her attention to promoting voter turnout. Therefore, the Murphy committee's three paid staff, Dan Cox, Tom Basgen, and Mara Novillo, all left the employment of the Murphy committee and, effective July 17, 2020, began working for the MN DFL State Central Committee. The MN DFL State Central Committee's July 27, 2020, and September 22, 2020, reports of receipts and expenditures show payroll expenses to Dan Cox, Tom Basgen, and Mara Novillo starting July 17, 2020.

The Murphy committee states that while Erin Murphy announced the job openings and published them on her committee's letterhead, the positions will be employed, paid, and supervised exclusively by the MN DFL State Central Committee. In a sworn statement, Erin Murphy provides, "My campaign committee has not made any contributions to any other candidate's principal campaign committee nor has my campaign committee made any independent expenditures to support any other candidates."

At its meeting on October 7, 2020, the Board considered this matter and attorneys for both the Murphy committee and the Senate Victory Fund appeared before the Board.

## **Analysis**

When the Board chair 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. Minn. Stat. § 10A.022, subd. 3 (d).

Minnesota Statutes section 10A.27, subdivision 9, paragraph (a), states a "candidate's principal campaign committee must not make a contribution to another candidate's principal campaign committee, except when the contributing committee is being dissolved." The complaint alleges that the Murphy committee has made or intended to make expenditures to hire campaign staff who will work on behalf of other Minnesota state-level candidates. Under Chapter 10A, expenditures made on behalf of a candidate "with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate's principal campaign committee, or the candidate's agent" are approved expenditures. Minn. Stat. § 10A.01, subd. 4. An approved expenditure is a contribution to the candidate on whose behalf the expenditure is made.

Here, the Murphy committee advertised for two job positions on its campaign letterhead. The Erin Murphy Twitter account tweeted about the positions stating in part that "our campaign is expanding to take on the challenges of the last weeks of this election – we are looking for one full time organizer and a crew of part-time fellows." Both job postings asked potential applicants to email their resumés and letters of interest to an email address of the Murphy committee. It is



understandable why the complainant concluded that the Murphy committee either was making, or was about to make, a contribution to another candidate's principal campaign committee, specifically candidates in closely contested Senate races. However, the response from the Murphy committee shows that the positions will be employed, paid, and supervised exclusively by the MN DFL State Central Committee.

The MN DFL State Central Committee may make approved expenditures, independent expenditures, and multicandidate political party expenditures on behalf of candidates. Multicandidate political party expenditures are defined in Minnesota Statutes section 10A.275 as expenditures made "by a party unit, or two or more party units acting together" and include specific services or expenditures such as promoting the party without specifically mentioning a candidate, an official party sample ballot with three or more names of individuals who will appear on the ballot, a phone bank for three or more individuals who will appear on the ballot, a political party fundraising effort for three or more candidates, and party committee staff services that benefit three or more candidates. The statute provides that political party units may act together to make multicandidate expenditures, but it does not provide a role for candidate committees in the decision to make those expenditures. If a principal campaign committee's level of work on the multicandidate expenditures amounts to joint decision making with the political party unit, then the expenditure falls outside the definition of a multicandidate party expenditure. Further, if a principal campaign committee places conditions on the principal campaign committee's contribution, the committee and the political party run the risk of earmarking in violation of Minnesota Statutes section 10A.16.<sup>1</sup>

Here, the Murphy committee has stated that the posted positions will be employed, paid, and supervised only by the MN DFL State Central Committee. Therefore, the involvement of the Murphy committee in advertising and accepting applications for the positions will be the extent of the committee's involvement with any multicandidate political party expenditures that are later made.

Minnesota Statutes section 10A.25, subdivision 3a, states that a candidate who signed the public subsidy agreement "must not make independent expenditures." The complaint alleges that the Murphy committee has made or is making expenditures to hire campaign staff who will work "to mobilize potential voters to support candidates in contested Senate races." Under Minnesota Statutes section 10A.01, subdivision 18, expenditures expressly advocating the election or defeat of a clearly identified candidate that are "made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent" are independent expenditures. Here, the Murphy committee states that it has not made, nor will it make, any independent expenditures on behalf of other candidates.

Based on the complaint, the response from the Murphy committee, and the declarations from Erin Murphy and Dan Cox, there is not probable cause to believe that the Murphy committee

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<sup>1</sup> See [Advisory Opinion 370 \(Nov. 22, 2005\)](#).

made expenditures that violated either the prohibition on making a contribution to another candidate's principal campaign committee or the prohibition on making independent expenditures.

**Order:**

1. The allegation that the Erin Murphy for Senate committee violated the prohibition on making a contribution to another candidate's principal campaign committee in Minnesota Statutes section 10A.27, subdivision 9, is dismissed without prejudice because there is not probable cause to believe that this violation occurred.
2. The allegation that the Erin Murphy for Senate committee violated the prohibition on making independent expenditures in Minnesota Statutes section 10A.25, subdivision 3a, is dismissed without prejudice because there is not probable cause to believe that this violation occurred.

/s/ Stephen Swanson  
Stephen Swanson, Vice Chair  
Campaign Finance and Public Disclosure Board

Date: 10/9/2020