

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

.....  
**April 6, 2022**

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

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**MINUTES**

The meeting was called to order by Chair Rashid.

Members present: Asp, Flynn, Leppik, Rashid, Soule, Swanson

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

**MINUTES** (March 2, 2022)

After discussion, the following motion was made:

Member Leppik's motion: To approve the March 2, 2022, minutes as drafted.

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

**CHAIR'S REPORT**

**A. 2022 meeting schedule**

After discussion the Board decided to change the standard start time for future Board meetings to 10:30 a.m. The next Board meeting is scheduled for 10:30 a.m. on Wednesday, May 4, 2022 and will be held in person.

**EXECUTIVE DIRECTOR'S REPORT**

Mr. Sigurdson presented members with a memorandum regarding these matters that is attached to and made a part of these minutes.

**A. Lobbyist Principal Report**

Mr. Sigurdson told members that lobbyist principal reports had been received from 1,442 of the 1,456 principals required to file. Mr. Sigurdson said that those reports disclosed roughly \$68,492,000 in spending to influence legislative and administrative action and action by metropolitan governmental units, as well as roughly \$5,311,000 in spending to influence action by the Public Utilities Commission, for a total of roughly \$73,803,000.

## **B. Appointment and Confirmation of Board Members**

Mr. Sigurdson stated that all Board members had been confirmed by both bodies of the legislature.

## **C. Update on Legislation**

Mr. Sigurdson told members that the memorandum provided in advance of the meeting was somewhat obsolete due to the introduction of two omnibus bills. Mr. Sigurdson said that the bill in the House, HF 4293, contains four provisions that would affect the Board. Mr. Sigurdson explained that the bill would 1) expand the definition of express advocacy to include its functional equivalent; 2) effectively repeal Advisory Opinion 454, which acknowledged that a party unit may operate a meeting space and charge membership fees paid by lobbyists, if the fees are paid prior to the beginning of a regular session of the legislature; 3) change the disclaimer requirement for independent expenditures to require the inclusion of the spender's three top contributors; and 4) require the Board to promulgate administrative rules regarding the disclaimer requirements applicable to social media and other electronic communications. Mr. Sigurdson said that the bill in the Senate, SF 3975, contains two provisions that would affect the Board. Mr. Sigurdson explained that the bill would 1) prohibit lobbyists from attending or having membership in a facility during a regular session of the legislature, effectively repealing Advisory Opinion 454; and 2) reduce the general threshold for registration with the Board from \$750 to \$200. Mr. Sigurdson stated that the differences between the bills will likely be addressed in a conference committee.

## **D. Board Staffing**

Mr. Sigurdson told Board members that the vacant staff position had been posted with an application deadline of April 12.

Member Flynn asked if the Board has a position on lowering the registration threshold to \$200. Mr. Sigurdson explained that the registration threshold had previously been \$200, and before that it was \$100, and the number of registered committees was not dramatically different. Mr. Sigurdson said there may be a slight increase in registrations if the threshold is lowered, but he does not expect such a change to have a significant impact on Board operations.

## **ADVISORY OPINION 455**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson stated that the Board had received a request for an advisory opinion that does not identify the requester. Mr. Sigurdson said that the request was made on behalf of a Super PAC that is registered with the Federal Election Commission. Mr. Sigurdson explained that at the federal level a Super PAC may only make independent expenditures and may accept unlimited contributions from corporations, labor unions, and individuals. Mr. Sigurdson stated that at the state level a Super PAC is an unregistered association, and is not required to limit its activity to independent expenditures. Mr. Sigurdson said that the requester has an internal policy to only accept contributions from individuals and the Super PAC has invested some of its contributions in order to generate income. Mr. Sigurdson explained that for purposes of liability the Super PAC is

incorporated as a non-stock corporation, it has no shareholders, it was no organized for the purpose of running a business, and it was not established by a business or a labor union.

Mr. Sigurdson stated the generally in Minnesota, corporations are not allowed to make contributions to any entity other than independent expenditure committees and funds. Mr. Sigurdson explained that there is an exception to that prohibition within Minnesota Statutes section 211B.15 for a nonprofit corporation that meets three tests. Mr. Sigurdson then read the criteria set forth in Minnesota Statutes section 211B.15, subdivision 15. Mr. Sigurdson told members that the draft advisory opinion concludes that the Super PAC satisfies those criteria and thereby may make political contributions in Minnesota. Mr. Sigurdson explained that the draft advisory opinion notes that committees and party units registered with the Board also receive investment income, such as interest from interest-bearing bank accounts, certificates of deposit, and other investment tools. Mr. Sigurdson said that investment income is not reported as contributions under Chapter 10A, but rather is reported as miscellaneous income.

Mr. Sigurdson stated that the remainder of the draft advisory opinion confirms the requester's understanding of the requirements the Super PAC would be subject to by making contributions as an unregistered association. Mr. Sigurdson explained that if the Super PAC makes contributions to more than three entities registered with the Board within a calendar year, it would need to register with the Board. Mr. Sigurdson said that if the Super PAC makes contributions in excess of \$200 to a recipient it will be required to provide a disclosure statement, which may consist of a link to the FEC webpage that contains the Super PAC's FEC reports. Mr. Sigurdson explained that the legislature recently amended the disclosure requirement to allow an unregistered association to provide a link to a governmental website where its reports are displayed, which is more convenient both for the recipient entity and for the Board.

Member Asp asked to confirm that a Super PAC would only be able to make independent expenditures at the federal level but would be allowed to make contributions to candidate committees at the state level. Mr. Sigurdson confirmed that that is correct, based on the specific facts provided in the request for an advisory opinion.

Member Asp asked if the Super PAC would be able to accept any corporate contributions. Mr. Sigurdson explained that the draft advisory opinion does not address that question because the requester stated that the Super PAC does not accept any corporate contributions. The advisory opinion does provide that if the Super PAC changes its policy to only accept contributions from individuals, then the advisory opinion can no longer be relied on.

The following motion was made:

Member Soule's motion: To adopt the advisory opinion as drafted.

Member Swanson asked if the Super PAC would be able to make unlimited contributions to state-level candidate committees. Mr. Sigurdson stated that state-level candidate committees are subject to a contribution limit that restricts the amount they could accept from the Super PAC, or any unregistered association. Member Swanson also asked if Board staff are aware of the Super PAC's corporate form. Mr. Sigurdson said that the Super PAC is registered as a non-share corporation and is also registered

as a 527 organization. Member Swanson asked whether the term nonprofit corporation is a term of art, as used within Minnesota Statutes section 211B.15, subdivision 15, and whether the Board should look to other Minnesota statutes regarding nonprofit corporations to determine whether the Super PAC is a nonprofit corporation. Mr. Sigurdson stated that the draft advisory opinion is based on the information provided in the request, and in this instance the requester has stated that the Super PAC is a nonprofit that is incorporated for liability purposes. Member Swanson stated that under Minnesota Statutes section 211B.15, subdivision 15, the term nonprofit corporation has meaning that extends beyond the three criteria provided in that subdivision, and he is not completely comfortable with contributions to Minnesota candidates when the Super PAC is prohibited from doing the same at the federal level.

Chair Rashid expressed the belief that the term nonprofit corporation has a specific meaning under Minnesota statutes and noted that the request does not state that the Super PAC is a Minnesota nonprofit corporation. Mr. Sigurdson stated that he does not believe that the Super PAC is registered as a nonprofit corporation in Minnesota. Mr. Sigurdson expressed the belief that the exception provided by Minnesota Statutes section 211B.15, subdivision 15, is not limited to nonprofit corporations registered in Minnesota.

Member Asp agreed that the nonprofit exception is not limited to nonprofit corporations registered in Minnesota and said he feels it is sufficient that the Super PAC is a tax-exempt 527 organization under federal law that is carrying out activities in Minnesota.

Chair Rashid asked whether there is guidance in Chapter 211B or elsewhere that helps define the term nonprofit corporation. Mr. Olson stated that Minnesota Statutes Chapters 200-212 and Minnesota Rules Chapters 8200-8255 do not provide a definition of the term nonprofit corporation, and it would be difficult to rely on the definition provided in another chapter because that would require the nonprofit corporation to be registered in Minnesota. Chair Rashid said that Minnesota Statutes section 211B.15, subdivision 15, provides additional criteria for the exception rather than providing a definition of nonprofit corporation. Chair Rashid asked whether using the Super PAC's federal tax classification would be consistent with the past practice of the Board. Mr. Sigurdson stated that the Board has previously considered the three criteria in Minnesota Statutes section 211B.15, subdivision 15, when considering whether a federal committee, the majority of which are organized as a 527 organization, may make contributions in Minnesota. Chair Rashid suggested that the advisory opinion include a statement in fact number 5 that the requestor is a properly formed nonprofit organization.

Member Soule's motion was amended as follows:

Member Soule's motion: To adopt the advisory opinion as drafted with the addition of the sentence discussed above.

Vote on motion: A roll call vote was taken. Five members voted in the affirmative, Swanson voted nay.

## **ENFORCEMENT REPORT**

### **A. Consent Items**

#### **1. Request of Infinite Campus to withdraw registration of lobbyist Sarah Erickson (1469)**

Mr. Olson told members that Ms. Erickson registered on behalf of Infinite Campus on February 28, 2022, and after reviewing the applicable statutes Infinite Campus decided not to engage a lobbyist and asked that Ms. Erickson's registration be withdrawn. Mr. Olson stated that no lobbying was done on behalf of the principal.

The following motion was made:

Member Flynn's motion: To approve the request.

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

### **B. Discussion Items**

#### **1. Administrative termination of lobbyist Alexandra Vagac (4758)**

Mr. Olson told members that Education Minnesota requested that the lobbyist registration of Ms. Vagac be terminated as she ceased to be employed by that principal as of July 2, 2021. Mr. Olson said that the principal and Board staff attempted to contact Ms. Vagac asking her to file a termination statement, but she has not done so. Mr. Olson explained that Education Minnesota is the only principal represented by Ms. Vagac and the principal completed a termination statement on Ms. Vagac's behalf, signed by its director of public affairs. Mr. Olson said that aside from the termination statement there are no outstanding reports as Ms. Vagac's disbursements were reported by another lobbyist for the same principal.

The following motion was made:

Member Swanson's motion: To approve the request.

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

#### **2. Request to make termination of lobbyist Charles Repke (608) retroactive to 12/31/2020**

Mr. Olson stated that two lobbyist principals, Madison Equities, Inc. and Center Ice LLC, requested that the termination of lobbyist Charles Repke be made retroactive to 12/31/2020. Mr. Olson explained that Mr. Repke died in August 2021 and each principal has stated that he did not lobby on their behalf in 2021. Mr. Olson said that Mr. Repke was the sole lobbyist registered on behalf of each principal and he filed disbursement reports stating that no lobbying disbursements were made during the period from 1/1/2021 through 3/15/2021, and terminating his registration on behalf of each principal effective

3/15/2021. Mr. Olson explained that making the terminations retroactive would prevent the two principals from having to file a report of lobbyist principal for 2021.

The following motion was made:

Member Flynn's motion: To approve the request.

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

### **3. Request to withdraw registration of Sammy T McCarty 4 Minnesota (18780)**

Mr. McCarty appeared before the Board and explained his request. Member Asp asked how much the committee raised and Mr. McCarty said the total is \$200. After discussion Mr. Sigurdson confirmed with Mr. McCarty that he would agree to sign a termination report rather than have his committee's registration be withdrawn. Mr. Sigurdson then withdrew the request and stated that Board staff will assist Mr. McCarty in filing a termination report.

### **4. Balance adjustment request – Sahra (Odowa) For Senate (18508)**

Mr. Olson told members that Ms. Odowa was an unsuccessful candidate for state senator in 2020. Mr. Olson said that her committee's original 2020 year-end report listed an ending cash balance of \$5,051.74, but the committee's actual cash balance as of the end of 2020 was zero. Mr. Olson stated that the committee's treasurer, Jimmy Tarpey, explained that he became the committee's treasurer approximately six months after its inception and that a number of practices prior to his tenure likely contributed to the discrepancy. Mr. Olson explained that Mr. Tarpey stated that cash contributions were received and apparently used to make expenditures without being deposited in the committee's bank account, contributions and expenditures were not well documented, and receipts and invoices for many purchases were not retained. Mr. Olson said that Mr. Tarpey explained that he is unable to reconcile the discrepancy and the previous treasurer is estranged from the committee.

Mr. Olson told members that Mr. Tarpey provided copies of the committee's bank statements, ActBlue contribution records, various invoices, receipts, and canceled checks, and records of cash contributions, as well as a complete copy of the committee's Campaign Finance Reporter data. Mr. Olson said that he worked with Mr. Tarpey to correct several reporting errors and Mr. Tarpey filed an amended 2020 year-end report with an ending cash balance of \$3,363.82. Mr. Olson explained that the committee is asking that its 2020 ending cash balance be adjusted downward by \$3,363.82, and if that adjustment is approved the committee's registration with the Board will be terminated. Mr. Olson stated that the committee has provided documentation showing that the committee's bank account had a zero balance as of November 30, 2020, and the committee reported \$67,232 in monetary receipts and \$63,893 in monetary disbursements in 2020.

Mr. Tarpey appeared before the Board and explained that he took over as treasurer partway through 2020. Mr. Tarpey stated that the committee lacked detailed records when he took over and the

committee had to ask vendors for past invoices. Mr. Tarpey stated that the previous treasurer accepted cash contributions that were never deposited, the previous treasurer was terminated, and he is now estranged from the committee.

Member Flynn asked, and Mr. Olson explained, that the Odowa committee received total public subsidy funds of \$8,162.10.

Member Asp asked whether the committee knows how the funds that are not accounted for were used. Mr. Tarpey stated he does not know for sure. Mr. Tarpey said that the previous treasurer, Ibrahim Mohamed, was very unhelpful when Mr. Tarpey attempted to reconcile the committee's financial records.

After discussion the following motion was made:

Member Swanson's motion: To approve the request.

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

### **C. Waiver Requests**

#### **7. Leili Fatehi (4195) – Three lobbyist reports due 6/15/2020 – \$3,000 LFFs and \$3,000 CPs**

Mr. Olson explained that Ms. Fatehi's three reports due June 15, 2020, were filed on October 26, 2020. Mr. Olson stated that the waiver request said that the reports were filed late due to staffing difficulties and Ms. Fatehi's health challenges. Mr. Olson said that in each instance Ms. Fatehi was responsible for reporting the disbursements of one other lobbyist and none of the three reports disclosed any disbursements made during the reporting period. Mr. Olson also explained that the Board has received payment for two late filing fees of \$275 each for Ms. Fatehi's reports that were due in January 2021 as well as for a \$1,000 late filing fee and \$1,000 civil penalty for the 2019 report of lobbyist principal of Minnesotans for Responsible Marijuana Regulation, one of Ms. Fatehi's principals. Mr. Olson explained that the staff recommendation is to reduce the balance owed from \$6,000 to \$500.

Ms. Fatehi then addressed the Board and explained that her business had staffing difficulties during the COVID-19 pandemic that coincided with her health matters.

After discussion the following motion was made:

Member Swanson's motion: To approve the staff recommendation.

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

Entity	Late Fee/ Civil Penalty	Report Due	Factors and Recommended Action	Board Member's Motion	Motion	Vote on Motion
1. Committee to Elect Andy Hillebregt for House of Rep 35A (17434)	\$600 LFF	2021 Year-End	Report due 1/31/2022 was filed 3/7/2022. Candidate mistakenly filed a 2022 year-end report via the CFR software on 1/27/2022. After the error was discovered the candidate promptly filed a 2021 year-end report instead. The committee has had no financial activity since 2018 and reported a 2021 ending cash balance of \$3,768. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 3	A roll call vote was taken. All members voted in the affirmative.
2. Bruce West (Dept. of Public Safety)	\$70 LFF	2021 Annual EIS	Annual EIS due 1/24/2022 was filed 3/7/2022. Official was not aware that he needed to file an EIS covering 2021, he retired in Oct. 2021, and we lacked valid contact information. After Board staff obtained a valid address and a letter was mailed regarding the need to file an EIS, the EIS was promptly filed. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 3	A roll call vote was taken. All members voted in the affirmative.
3. Shanasha Whitson (4526)	\$225 LFFs	2nd 2020 Lobbyist 2nd 2021 Lobbyist	Report due 1/15/2021 was filed 1/19/2021 resulting in a late fee of \$25. Report due 1/18/2022 was filed 1/28/2022 resulting in a late fee of \$200. Lobbyist stated that medical issues and other effects of COVID-19 prevented her from filing the report due in Jan. 2022 on time. Each report disclosed no disbursements. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 3	A roll call vote was taken. All members voted in the affirmative.
4. F. Clayton Tyler (9578)	\$200 LFF	2nd 2021 Lobbyist	Report due 1/18/2022 was filed 1/28/2022. Lobbyist filed a report for another principal by the due date but mistakenly did not file the second report at that time. The report disclosed no disbursements. RECOMMENDED ACTION: Reduce to \$100	Member Leppik	To approve the staff recommendation for requests 4 through 6	A roll call vote was taken. All members voted in the affirmative.



<p>5. 4th Congressional District GPM (20733)</p>	<p>\$950 LFF</p>	<p>2021 Year-End</p>	<p>Report due 1/31/2022 was filed 3/25/2022. Former treasurer stepped down and the party unit's co-chair eventually filed a no-change statement covering 2021 after being contacted by Board staff. The statement reflects a cash balance of \$962.        RECOMMENDED ACTION:        Reduce to \$150</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 4 through 6</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>6. Jae Hyun Shim (Board of Behavioral Health and Therapy)</p>	<p>\$130 LFFs        \$1,000 CP</p>	<p>2020 and 2021 Annual EIS</p>	<p>Annual EISs due 1/25/2021 and 1/24/2022 were filed 2/23/2022, resulting in the maximum LFF and CP for the 2020 EIS and a \$30 LFF for the 2021 EIS. The failure to file the 2020 EIS was referred to the AGO in Sept. 2021 and a summons and complaint were served on 2/8/2022. Official has been dealing with chronic health issues over the past year and has been out of work throughout most of that period. Official only attended one BBHT meeting, in May 2020, and despite remaining a member has not participated in the BBHT's business. Board staff terminated the official within the Board's computer system as of the end of 2021 to eliminate the need to file an EIS for subsequent years.        RECOMMENDED ACTION:        Reduce CP to \$500, leaving a balance owed of \$630.</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 4 through 6</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>8. CPC LLC (Community Partnership Collaborative) (7525)</p>	<p>\$50 LFF</p>	<p>2021 Lobbyist Principal</p>	<p>Report due 3/15/2022 was filed two days late. Lobbyist attempted to file the report on the due date via the Board's website but appears to have attempted to file a lobbyist disbursement report rather than the report of lobbyist principal. After the error was discovered the correct report was promptly filed. The report disclosed no expenditures. RECOMMENDED ACTION: None</p>	<p>No motion</p>		

9. Jennifer Breitinger (9098)	\$150 LFF	2nd 2021 Lobbyist	Report due 1/18/2022 was filed 1/26/2022. Lobbyist filed reports for eight other principals by the due date but mistakenly did not file this report on time. The report disclosed no disbursements. RECOMMENDED ACTION: None	No motion		
10. 7B House District RPM (20332)	\$75 LFF	2021 Year-End	Report was due 1/31/2022. New treasurer doesn't believe he received reminders regarding the 2021 year-end report. Board records reflect that a paper report form was mailed to the treasurer in December 2021 but it appears that no email reminder was sent. Treasurer filed a year-end report for his own principal campaign committee prior to the due date but didn't realize that reports for party units were due at the same time. Treasurer was notified that the party unit's report had not been filed on 2/3/2022 and he completed and filed the report the same day. The party unit had a cash balance of \$812 as of the end of 2021. RECOMMENDED ACTION: None	No motion		
11. 60th Senate District RPM (20493)	\$900 LFF	2021 Year-End	Report due 1/31/2022 was filed 3/23/2022. Treasurer doesn't have the ability to file reports electronically and the party unit only had \$854 in receipts and \$500 in disbursements in 2021. The party unit had a cash balance of \$2,205 as of the end of Jan. 2021. RECOMMENDED ACTION: None	No motion		

**A. Informational Items**

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

Stonewall DFL Political Action Committee, \$100

**2. Payment of late filing fee for 2021 year-end report of receipts and expenditures**

Carollo (Ben) for MN 13-B, \$625

Alma (Wetzker) for House, \$250  
Fontaine (Kip O'dean) for Senate, \$225  
SEIU Local 26 Political Fund, \$175  
Wabasha County RPM, \$150  
Wright County RPM, \$75  
(Kevin) Vickerman for Senate, \$50  
College Democrats of Minnesota, \$50  
Andrea Nelsen House Committee, \$25

**3. Payment of late filing fee for 2018 pre-general report of receipts and expenditures**

6th Congressional District DFL, \$100

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

17th Senate District DFL, \$25

**5. Payment of late filing fee for lobbyist disbursement report due 1/18/2022**

Paul Cassidy, \$175  
Samuel Rockwell, \$25

**6. Payment of late filing fee for lobbyist disbursement report due 1/15/2021**

Laili Fatehi, \$550 (\$275 x 2)

**7. Final partial payment of late filing fee for lobbyist disbursement report due 1/15/2020**

Marcus Harcus, \$250

**8. Payment of late filing fee for lobbyist principal report due 3/16/2020**

Minnesotans for Responsible Marijuana Regulation, \$1,000

**9. Payment of civil penalty for lobbyist principal report due 3/16/2020**

Minnesotans for Responsible Marijuana Regulation, \$1,000

**10. Payment of late filing fee for 2021 Annual EIS**

Blair Nelson, \$30

**11. Final partial payment of late filing fee for original EIS**

Jaden Partlow, \$160

**12. Forwarded anonymous contributions**

52B House District RPM, \$100

**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 told members that since the legal report had been prepared, Ms. Rhoades appeared at a default judgment hearing, a ruling on the default judgment motion was postponed, and Ms. Rhoades was given two weeks to file an answer to the complaint.

**EXECUTIVE SESSION**

Chair Rashid recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair had nothing to report into regular session.

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

Respectfully submitted,



Jeff Sigurdson  
Executive Director

Attachments:

Executive Director's Report – Board Operations

Public version of memo regarding Advisory Opinion 455 – Contributions from a committee registered with the Federal Election Commission

Draft public version of Advisory Opinion 455

Legal report



# MINNESOTA CAMPAIGN FINANCE BOARD

**Date:** March 30, 2022

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

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

## **Lobbyist Principal Report**

The lobbyist principal report, which discloses the expenditures made by principals to compensate lobbyists and to influence legislative action, administrative action, and official action by a metropolitan governmental unit during 2021, was due on March 15, 2022. Reports have been received from 1,442 of the 1,456 principals required to file. The reports filed so far disclose that \$68,492,151 was spent in 2021 to influence the official actions of the legislature, administrative agencies, and metropolitan governmental units. The amount spent to influence administrative action by the Minnesota Public Utilities Commission in cases of rate setting, power plant and power line siting, and granting of certificates of need is reported separately. In 2021, principals reported spending \$5,311,422 to influence administrative actions of the Minnesota Public Utilities Commission. Total lobbying expenditures currently reported for 2021 amount to \$73,803,574.

Below is a table showing the total spending reported on the annual principal reports for the last ten years. A principal is permitted, but not required, to round the amount reported to the nearest \$20,000.

Year	Amount Spent to Influence Legislative Actions, Administrative Actions, and Actions of Metropolitan Governmental Units	Amount Spent to Influence the Actions of the MN Public Utilities Commission	Total Amount of Spending Reported by Principals
2021	\$68,492,151	\$5,311,422	\$73,803,574
2020	\$62,974,402	\$5,049,003	\$68,023,406
2019	\$68,363,214	\$7,809,960	\$76,173,174
2018	\$63,768,044	\$15,029,661	\$78,797,705
2017	\$66,029,621	\$9,641,044	\$75,670,665
2016	\$62,140,012	\$6,222,560	\$68,362,572
2015	\$64,039,699	\$5,177,019	\$69,216,718
2014	\$64,733,179	\$5,673,292	\$70,406,471
2013	\$69,420,091	\$5,337,767	\$74,757,859
2012	\$59,725,768	\$2,749,590	\$62,475,358

A searchable listing of the reported expenditures for each lobbyist principal is available on the Board’s website homepage under the column heading “Latest News” - [Campaign Finance Board \(mn.gov\)](#). The information on principal spending may be sorted by clicking on any column header, limited to the most recent reporting year, or expanded to multiple years, and may be downloaded in a spreadsheet format for additional analysis.

**Appointment and Confirmation of Board Members**

Chair Rashid, Ms. Leppik, Mr. Asp, and Judge Swanson were confirmed by the full Senate on March 17, 2022. The full House confirmed Chair Rashid, Ms. Leppik, Mr. Asp, Judge Swanson, and Mr. Soule on March 3, 2022. All Board members are now fully confirmed by the legislature.

**Update on Legislation**

A list of the bills heard, or scheduled to be heard, related to Chapter 10A or Chapter 211B:

<b>Bill Number</b>	<b>Author</b>	<b>Topic</b>	<b>Status</b>
<a href="#">HF 2683</a>	Drazkowski	A lobbyist would be required to file an economic interest statement within five days after becoming a lobbyist. Lobbyists would also be required to file the annual economic interest statement.	Heard in the House State Government Finance and Elections committee on February 24, 2022, laid over for possible inclusion in the Committee’s policy bill.
<a href="#">HF 2747</a>	Klevorn	A lobbyist would not be able to contribute to a principal campaign committee, legislative caucus, or a political committee in exchange for access to a meeting space. The effect of this bill would be to nullify Advisory Opinion 454.	Heard in the House State Government Finance and Elections Committee, Committee report to pass as amended, Second reading March 17, 2022.
<a href="#">SF 3283</a>	Port	A lobbyist would not be able to contribute to a principal campaign committee, legislative caucus, or a political committee in exchange for access to a meeting space. The effect of this bill would be to nullify Advisory Opinion 454. This is	Heard in the Senate State Government Finance and Policy and Elections Committee on March 30, 2022, laid over for possible inclusion in the Committee’s policy bill.

		the companion bill to HF 2747.	
<a href="#">HF 3190</a>	Long	The definition of express advocacy is modified to include the functional equivalent test. Independent expenditure disclaimers must list the three top contributors to the committee that made the independent expenditure. The Board is directed to adopt rules on small electronic communication disclaimer requirements.	Heard in the House State Government Finance and Elections committee on February 15, 2022. The bill was laid over for future consideration in the Committee's policy bill.
<a href="#">HF 3557</a>	Marquart	Terminating principal campaign committees allowed to donate to school boards.	Heard in the House State Government Finance and Elections committee on February 24, 2022, laid over for possible inclusion in the Committee's policy bill.

**Board Staffing**

The staff position of Legal Analyst/Management Analyst left vacant by the retirement of Jodi Pope has been posted. An application for the position must be submitted by April 12, 2022. More information on the position and application process is available on the State job website - [Careers \(mn.gov\)](https://careers.mn.gov) – position number 54384.



# MINNESOTA

## CAMPAIGN FINANCE BOARD

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**Date:** March 30, 2022

**To:** Interested Members of the Public

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Advisory Opinion 455

This advisory opinion request was received on February 22, 2022. The requester is a political committee registered with the Federal Election Commission. The committee does not wish to make their request public. Therefore, the draft opinion that is provided to the public does not identify the requestor. The Board will only discuss the public version of the draft opinion during regular session.

Attachments:

Public version of draft advisory opinion 455



**State of Minnesota  
Campaign Finance & Public Disclosure Board  
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603**

**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY THE  
REQUESTER OF THE ADVISORY OPINION, WHICH IS NON PUBLIC DATA  
under Minn. Stat. § 10A.02, subd. 12(b)**

**ADVISORY OPINION 455**

**SUMMARY**

A nonprofit corporation may make political contributions in Minnesota as an unregistered association if the nonprofit corporation is organized and operated consistent with requirements provided in Chapter 211B. An unregistered association may contribute more than \$200 to no more than three registered committees during a calendar year. Committees registered with the Federal Election Commission may provide a government website address in order to meet the requirement for a disclosure statement to accompany contributions of over \$200.

**Facts**

As representatives of a political committee (the Committee) registered with the Federal Election Commission (FEC), you ask the Campaign Finance and Public Disclosure Board for an advisory opinion based on the following facts.

1. The Committee is registered with the FEC as a "Super PAC". Under federal law a Super PAC is a political committee that makes only independent expenditures for federal elections. A Super PAC may solicit and accept unlimited contributions from individuals, corporations, labor organizations, and other political committees.
2. The Committee has a policy to only accept contributions from individuals.
3. The Committee does not accept contributions from corporations. This includes in-kind administrative support for the Committee, which under FEC regulations and advisory opinions is not considered to be a corporate contribution.
4. The Committee has invested some of the contributions it has received and earns income from the investments. The income from the investments is reported to the FEC.
5. For liability purposes the Committee has incorporated as a nonstock corporation. The Committee is not organized or operating for the principal purpose of conducting a business. The Committee has no shareholders, and no persons have a claim on the

Committee's assets or earnings. The Committee was not established by a business corporation or a labor union.

6. The Committee files periodic reports with the FEC that are similar to reports filed by political committees under Chapter 10A in that donors, miscellaneous income from investments, and expenditures are itemized when the value of the transaction exceeds \$200 in a calendar year. Reports filed by the Committee are available for viewing on the FEC's website.

With this background in mind, the Committee asks the following questions.

### **Issue One**

Is the Committee able to make political contributions in Minnesota under the exemption for certain nonprofit corporations provided in Minnesota Statutes section 211B.15, subdivision 15?

### **Opinion One**

Yes. Minnesota Statutes section 211B.15, subdivision 2, prohibits most corporations from offering or making a political contribution to a candidate committee, political party unit, political committee, or political fund (registered committees).<sup>1</sup> However, an exception to this prohibition is made in subdivision 15 of the statute for nonprofit corporations that have three characteristics. The prohibition on political contributions does not apply to a nonprofit corporation that; (1) is not organized or operating for the principal purpose of conducting a business; (2) has no shareholders or other persons who have a claim on the nonprofit's assets or earnings; and (3) was not established by a business corporation or a labor union, and has a policy to not accept significant contributions from business corporations or labor unions.

As provided in the facts of this opinion, the Committee meets all of the conditions needed in order to make political contributions as provided in Minnesota Statutes section 211B.15, subdivision 15, in that it is not organized, or operated, in order to conduct a business. The Committee was incorporated for liability protection, but has no shareholders or other persons with a claim on its assets or earnings. And finally, the Committee only accepts contributions from individuals.

The Committee has invested some of the receipts it has received, and from the investments receives income that the Committee may subsequently use to make contributions. The proceeds from the investments are not "contributions" as defined in Minnesota Statutes section 10A.01, subdivision 11, in that income from the investments is not given to the Committee for a political purpose. It is not unusual for registered committees to use interest-bearing checking accounts, savings accounts, certificates of deposit, and other investments that provide a return on money that is not immediately needed for an election. Income from the

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<sup>1</sup> The prohibition on receiving corporate contributions does not apply to independent expenditure committees and independent expenditure funds, Minnesota Statutes section 211B.15, subdivision 3.

investments are reported as miscellaneous income, and not as a contribution from the bank or institution that provided the investment instrument. The Board does not consider proceeds from these types of investments, by itself, as business activity that will prevent an unregistered association from qualifying for the nonprofit corporation exemption needed to make political contributions in Minnesota.

The Board notes that under federal law the Committee could accept contributions from corporations and labor unions. If the Committee changes its internal policy on accepting contributions from only individuals, the answers provided in this advisory opinion cannot be relied upon by the Committee.

### **Issue Two**

May the Committee make political contributions of over \$200 to up to three candidate committees, political party units, political committees, or political funds?

### **Opinion Two**

Yes. Minnesota Statutes section 10A.27, subdivisions 13-16, provide limitations on unregistered associations that wish to make contributions to registered committees. Under Minnesota Statutes section 10A.27, subdivision 13, an unregistered association, that is not otherwise barred by the prohibition on corporate contributions, may make contributions of more than \$200 in aggregate to no more than three separate registered committees during a calendar year.<sup>2</sup> The unregistered association may make multiple contributions to each of the three registered committees. With each contribution the unregistered association must provide a disclosure statement to the recipient committee if the aggregate amount given to the committee within the calendar year exceeds \$200. If an unregistered association provides contributions of over \$200 to more than three separate registered committees during a calendar year, then the unregistered association is required to register as a political committee or political fund with the Board.

### **Issue Three**

May the Committee satisfy the disclosure requirement for contributions from an unregistered association by providing a certified written statement to recipient committees that provides the URL to the FEC webpage where the Committee's filings can be viewed?

### **Opinion Three**

Yes. The disclosure statement provided by the Committee must meet the disclosure requirements found in Minnesota Statutes section 10A.20. Among the requirements is that donor contributions, expenditures, and contributions to other entities must be itemized if they exceed \$200. This is the same itemization threshold generally required of committees registered with the FEC, and largely because of that common itemization threshold, FEC reports

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<sup>2</sup> An unregistered association may make contributions to an unlimited number of independent expenditure political committees and funds and ballot question committees and funds pursuant to Minnesota Statutes section 10A.27, subdivisions 14-15, without registering with the Board.

resemble reports filed by committees registered with the Board. FEC committees report on a more frequent schedule during a non-election year than is required under Chapter 10A, and often report on a quarterly or monthly basis during much of each election year, so FEC reports sometimes do not match the reporting periods provided in Chapter 10A. Nonetheless, the Board accepts that FEC reports meet the disclosure statement requirements for unregistered associations when a contribution of over \$200 is made to a registered committee, so long as the report or multiple reports include the entire calendar year through the date the contribution was made, or if the contribution was made within the first 30 days of a calendar year, a period of at least 30 days immediately preceding the date the contribution was made.

The disclosure statement required from the Committee for contributions of over \$200 is provided to the recipient committee, which in turn forwards the statement to the Board at the next reporting period for the registered committee. Disclosure statements are often large, in particular from FEC committees. To reduce the bulk of disclosure statements forwarded to the Board, and to make the disclosure statements easier for the public to access from a computer, the legislature amended the disclosure statement requirement in 2021 so as to allow an unregistered association to either file a disclosure statement on paper, or provide the recipient committee with the address of a government website where the disclosure statement for the unregistered association may be viewed. The FEC's website is a government website, and provides access to the periodic reports filed by the Committee. If the Committee provides a statement to recipient committees certifying that the applicable report(s) filed with the FEC are true and correct, and provides the web address at which the report(s) may be viewed, it will have complied with the disclosure statement requirements of Minnesota Statutes section 10A.27, subdivision 13. If the FEC website address provides access to multiple Committee reports, then the statement should identify the specific report(s) that provide the disclosure required for the contribution.

Issued: April 6, 2022

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Faris Rashid, Chair  
Campaign Finance and Public Disclosure Board

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**  
**APRIL 2022**  
**ACTIVE FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Jenny Rhoades		Candidate Statement of Economic Interest due 6/15/20—filed after lawsuit served.	\$100 LFF \$1,000CP	9/23/20	6/29/21 1/1/22	4/4/22		In Feb. 3 phone call, Rhoades stated she intends to appear and contest the default judgment motion.
Jae Hyun Shim		Statement of Economic Interest due 1/25/2021	\$100 LFF \$1,000CP	9/7/21	2/9/22			Shim filed the statement on February 25. Matter placed on hold while Board considers requested waiver of fees and penalties.

**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
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year-End Report and unpaid late filing fee on 10/31/16 Pre-General Election Report	\$1,000 LFF \$1,000 CP  \$50 LFF	3/6/18	8/10/18 1/8/21 2/18/21	11/15/21 (summary judgment)	2/2/22	Obtained a summary judgment order in favor of Board.

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
Marcus Harcus	MN Campaign for Full Legalization	-Original Statement of Economic Interest, due 6/16/20 -Lobbyist Disbursement Report due 6/15/20 -Lobbyist Disbursement Report due 1/15/20 -Late Filing of Lobbyist Disbursement Report due 1/15/19 -Late Filing of Lobbyist Disbursement Report due 6/15/18 -Annual Lobbyist Principal Report, due 3/16/20	\$100 LFF \$1,000 CP  \$1,000 LFF \$1,000 CP  \$1,000 LFF \$1,000 CP  \$1,000 LFF   \$200 LFF    \$1,000 LFF \$1,000 CP	10/5/20	4/27/21			Harcus filed all missing reports and paid outstanding late filing fees and civil penalties.
Steve Laitinen		2018 Public Official Statement of Economic Interest  2019 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP  \$100 LFF and \$1,000 CP	9/23/20	6/14/21	1/27/22	2/2/22	Obtained a default judgment order in favor of Board.
Jaden Partlow		Candidate Statement of Economic Interest due 6/15/20	\$100 LFF \$700CP	9/23/20	6/18/21			Partlow filed the EIS and paid owing late fee and civil penalty.