

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

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**November 14, 2022
Blazing Star Room
Centennial Office Building**
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MINUTES

The meeting was called to order by Vice Chair Soule.

Members present: Asp, Leppik, Rashid (arrived during chair's report), Soule, Swanson

Members absent: Flynn

Others present: Sigurdson, Engelhardt, Hager, Olson, staff; Kaisershot, counsel (arrived during executive director's report)

MINUTES (October 5, 2022)

The following motion was made:

Member Leppik's motion: To approve the October 5, 2022, minutes as drafted.

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

CHAIR'S REPORT

2022 and 2023 meeting schedule

The next Board meeting is scheduled for 9:30 a.m. on Thursday, December 15, 2022.

EXECUTIVE DIRECTOR'S REPORT

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

Campaign finance reports

Mr. Sigurdson stated that there are currently a few outstanding 2022 pre-general reports. Mr. Sigurdson explained the efforts taken by Board staff to ensure reports were timely filed.

Annual Report of Board Operations for Fiscal Year 2022

The Annual Report of Board Operations by Fiscal Year is required by statute, and is filed with the Legislative Reference Library, the Governor's office, and legislative leadership. Mr. Sigurdson provided a brief overview of the document. After discussion the following motion was made:

Member Soule's motion: To approve the annual report.

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

Lobbyist disbursement summary

The Board produces an annual summary of disbursements made on lobbying in Minnesota. The summary for calendar year 2021 is now complete and available on the Board's website. Mr. Sigurdson stated that annual lobbying disbursements increased by just over 8% in 2021 and also described the contents of the 2021 Lobbying Disbursement Summary.

RECONCILIATION OF CONTRIBUTIONS

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson said that each year Board staff tries to identify instances in which contributions reportedly made and received by registered entities are not reflected by the reports filed by each entity. Mr. Sigurdson said that there is \$17,750 in 2021 contributions that has yet to be reconciled, but 99.77% of 2021 contributions have been reconciled. In response to a question from Vice Chair Soule Mr. Sigurdson explained two common causes of reconciliation issues. Mr. Sigurdson stated that registered entities sometimes report contributions with an incorrect source or recipient due to confusion caused by similar names among committees, funds, and party units. Mr. Sigurdson said that another cause is contributions made toward the end of a calendar year but not reported as received until the following calendar year.

MEMBER SWANSON'S PROPOSAL ON STAYED FINES

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 typically a conciliation agreement regarding a prohibited contribution or a contribution limit violation requires the return of the excess or prohibited contributions and imposes a civil penalty equal to the amount of a violation, for a first-time violation. Mr. Sigurdson explained that in that instance, approximately 75% of the penalty is typically stayed until the end of the election segment, then if there is no subsequent similar violation that portion of the civil penalty is waived.

Member Swanson stated that the purpose of his proposal is to eliminate the routine use of stayed fines, but a stayed fine may be appropriate in some instances. In response to a question from Member

Leppik, Member Swanson said that he does not expect his proposal to change the amount that a committee is required to immediately pay, and that Board staff may recommend that a committee be required to pay a percentage of the violation amount. Member Swanson said the rationale for his proposal is that in several cases the Board has imposed a stayed civil penalty via a conciliation agreement when he does not feel that there was a good reason to do so.

In response to questions from Vice Chair Soule and Chair Rashid, Mr. Sigurdson said that he believes the Board collects a small percentage of stayed civil penalties, likely less than 5%. Mr. Sigurdson said he does not have any problem with generally requiring immediate payment of the full amount.

In response to a question from Ms. Engelhardt, Member Swanson stated that he did not mean for his proposal to impact the amount of the civil penalty to be paid. Vice Chair Soule said he is fine with the proposal and stated that he feels that the amounts violators have been required to pay initially have been appropriate. Vice Chair Soule said his preference is that Board staff not recommend higher civil penalty amounts in reaction to the change proposed by Member Swanson.

In response to a question from Chair Rashid, Mr. Olson said that a stayed civil penalty is useful in some instances, especially those in which a committee would have a hard time paying the stayed penalty. Mr. Olson also said that if the Board generally won't stay a substantial portion of a civil penalty for a first-time violation, then a conciliation agreement will be rather similar to findings, and he feels that the Board should provide an incentive to committees to agree to a conciliation agreement.

Vice Chair Soule said that committees will have an incentive not to commit the same violation because a second violation would be cause to impose a higher civil penalty for the second violation. Member Asp said he supports the proposal and said he would like more analysis of the factors underlying a recommended civil penalty amount. Chair Rashid spoke in favor of the proposal. Member Leppik spoke in opposition to the proposal. A straw poll was taken by show of hands with Members Asp, Rashid, Soule, and Swanson voting in favor of the proposal, and Member Leppik voting in opposition to the proposal. Mr. Sigurdson recommended implementing the change in approach starting with violations that occur after the end of the 2021-2022 election cycle segment.

ENFORCEMENT REPORT

A. Discussion Items

Except for discussion item 2, the following requests were voted on via a single motion which is described at the bottom of the following list.

1. Request to refer matter to the Attorney General's Office – Lobbyist Ernest Avalos III

Ernest Avalos III (4723) has been a lobbyist registered with the Board since February 7, 2020. Mr. Avalos failed to file his lobbyist disbursement report that was due June 15, 2022. He has incurred the maximum late filing fee of \$1,000. There is no civil penalty because a certified letter was not sent.

Numerous notices were sent to Lobbyist Avalos regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

2. Request to refer matter to the Attorney General's Office – Lobbyist Meagan Perry

This request was withdrawn by Board staff because Ms. Perry has now filed a lobbyist termination statement and has communicated with Board staff regarding the outstanding late filing fees.

3. Request to refer matter to the Attorney General's Office – Lobbyist Stephanie Ohlmann

Stephanie Ohlmann (4861) has been a lobbyist registered with the Board since January 1, 2021. Ms. Ohlmann failed to file her lobbyist disbursement report that was due June 15, 2022. She has incurred the maximum late filing fee of \$1,000. There is no civil penalty because a certified letter was not sent. Numerous notices were sent to Lobbyist Perry regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

4. Request to refer matter to the Attorney General's Office –Lobbyist Principal Trace

Trace (7629) was a lobbyist principal that had one lobbyist registered with the Board from June 1, 2019 through May 28, 2021 and filed annual reports with the Board for 2019 and 2020. Trace failed to file its Annual Report of Lobbyist Principal that was due March 15, 2022 for the 2021 calendar year. Trace has incurred the maximum late filing fee of \$1,000 and the maximum civil penalty of \$1,000. Numerous notices were sent to Trace regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

5. Request to refer matter to the Attorney General's Office –Lobbyist Principal Environment America dba Environment Minnesota

Environment America dba Environment Minnesota (6403) was a lobbyist principal that had lobbyists registered with the Board from 2010 through May 31, 2021, and filed annual reports with the Board for 2010 through 2020. Environment America failed to file its Annual Report of Lobbyist Principal that was due March 15, 2022, for the 2021 calendar year. Environment America has incurred the maximum late filing fee of \$1,000 and the maximum civil penalty of \$1,000. Environment America further owes a \$675 late filing fee for the 2019 Annual Report of Lobbyist Principal. Numerous notices were sent to Environment America regarding the deadline for the report and the late filing fee for not filing the report. Staff is asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing the report and payment of the balance owed.

6. Request to refer matter to the Attorney General’s Office – Ashley Burg (Senate candidate)

Ms. Burg filed her affidavit of candidacy on May 31, 2022. Her original statement of economic interest due June 14, 2022, has not been filed. Ms. Burg has incurred the maximum late filing fee of \$100 and the maximum civil penalty of \$1,000 for the EIS. Multiple notices were sent to Ms. Burg regarding the need to file the EIS. Staff is asking the Board to refer the matter to the Attorney General’s Office to seek an order compelling filing of the EIS and payment of the balance owed.

The following motion was made:

Member Soule’s motion: To approve the requests stated within discussion items 1, 3, 4, 5, and 6.

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

B. Waiver Requests

Entity	Late Fee/ Civil Penalty	Report Due	Factors and Recommended Action	Board Member's Motion	Motion	Vote on Motion
1. MPA Political Action Committee (41040)	\$100 LFF	September 2022	Report due September 27, 2022, and filed October 3, 2022. Treasurer thought report had been submitted prior to the deadline and when contacted by Board staff before the due date, he was unable to file the report because he was out of town . Board staff was able to verify the PAC tried to submit a report on September 15, 2022 but the process did not complete, likely due to internet issues on the PAC's end. Ending cash balance of \$2,610 as of October 24, 2022. RECOMMENDED ACTION: Waive	Swanson	Approve the staff recommendation	Unanimously passed

<p>2. UAW Minnesota CAP Council Political Fund (30035)</p>	<p>\$25 LFF</p>	<p>September 2022</p>	<p>Report due September 27, 2022, and filed September 28, 2022. Had telephone call with Board staff on 27th at which time she thought the report was submitted along with an amended pre-primary report. The Board received the amendment but not the September report, so she filed it the next day. Ending cash balance of \$28,785 as of October 24, 2022. RECOMMENDED ACTION: Waive</p>	<p>Swanson</p>	<p>Approve the staff recommendation</p>	<p>Unanimously passed</p>
<p>3. Zupancich for Senate (18863)</p>	<p>\$500 LFFs</p>	<p>Pre-Primary 24-Hour Notice (x2) and 2022 Pre-Primary</p>	<p>\$400 in LFFs for two 24-hour notices due July 24, 2022, but not filed until July 28, 2022. \$100 LFF for pre-primary report due July 25, 2022, but not filed until July 27, 2022. Former treasurer had a partner with serious health issues. Said computer issues were partially to blame. Once candidate took over reporting, issues quickly resolved. New treasurer now in place. Ending cash balance of \$9,383 as of October 24, 2022. RECOMMENDED ACTION: Waive</p>	<p>Swanson</p>	<p>Approve the staff recommendation</p>	<p>Unanimously passed</p>
<p>4. PAL 9 National Association of Letter Carriers (40246)</p>	<p>\$100 LFF</p>	<p>September 2022</p>	<p>Report due September 27, 2022, and filed October 3, 2022. Report was late due to internet connection not being compatible with CFB software. Was able to file once learned of mistake and used different internet. Ending cash balance of \$8,440 as of October 24, 2022. RECOMMENDED ACTION: Waive</p>	<p>Swanson</p>	<p>Approve the staff recommendation</p>	<p>Unanimously passed</p>

<p>5. Roger Kittelson 20A Campaign Committee (18956)</p>	<p>\$550 LFF</p>	<p>2022 Pre-Primary</p>	<p>Report due July 25, 2022, and filed received by the Board August 9, 2022. Treasurer attempted to file the report on July 23, 2022, after talking with Board IT staff but the report was not received that day. When the treasurer realized the report was not received by the Board he again contacted Board staff August 7, 2022, spoke with Board IT staff on August 8, 2022, to resolve the issue and was able to submit on August 9, 2022. Ending cash balance of \$559 as of October 24, 2022. RECOMMENDED ACTION: Waive</p>	<p>Swanson</p>	<p>Approve the staff recommendation</p>	<p>Unanimously passed</p>
<p>6. Leigh Finke for MN (18807)</p>	<p>\$1,000 LFF</p>	<p>Pre-Primary 24-Hour Notice</p>	<p>Notice due August 5, 2022, and provided October 10, 2022. Contribution totaled \$1,000. Notice was not provided timely due to the treasurer not understanding the software. New treasurer has been put in place. Ending cash balance of \$18,323 as of October 24, 2022. Board typically reduces \$1,000 LFFs for 24-hour notices to \$250 for a first-time violation. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Leppik</p>	<p>Reduce to \$250</p>	<p>Unanimously passed</p>
<p>7. NAPAC-MN (41276)</p>	<p>\$225 LFF</p>	<p>September 2022</p>	<p>Report due September 27, 2022, and filed October 10, 2022. This was a no-change statement. Report was late due to not understanding the due dates. Was recently provided a list of the due dates to prevent further issues in the future. Pre-general report was filed on time and listed an ending cash balance of \$821. Committee has had very minimal financial activity. RECOMMENDED ACTION: No recommendation</p>	<p>Asp</p>	<p>Waive</p>	<p>Unanimously passed</p>

Felipe Illescas, Government Affairs Director for the Minnesota Nursery and Landscape Association, appeared before the Board regarding the waiver request of the MN Green Industry PAC. Mr. Illescas stated that there was a transition in staff so for two-to-three months there was no person handling the committee's reporting. Mr. Illescas said that he started in late August and there was also a transition in the committee's chair and treasurer.

8. MN Green Industry PAC (70053)	\$100 LFF	September 2022	Report due September 27, 2022, and filed October 3, 2022. Report was late due to internal staff transitions. Ending cash balance of \$5,219 as of October 24, 2022. RECOMMENDED ACTION: No recommendation	Soule	Waive	Unanimously passed
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C. Informational Items

1. Payment of late filing fee for September 2022 report of receipts and expenditures

Minnesota Conservative PAC, \$25
 Minnesota Seasonal Recreational Property Owners PAC, \$100

2. Payment of late filing fee for 2022 pre-primary report of receipts and expenditures

Livingston (Nancy) for Senate, \$150
 5th Congressional District IAP, \$50

3. Payment of late filing fee for 2022 pre-primary notice of large contribution

Dr. Scott Jensen for Governor, \$2,000 (\$1,000 x2)

4. Payment of late filing fee for June 2022 report of receipts and expenditures

IAFF-Local #1935 PAC, \$25

5. Payment of late filing fee for lobbyist disbursement report due 6/15/2022

Kayla Christensen, \$50
 Hue Nguyen, \$50
 Grace Keliher, \$25

6. Payment of late filing fee for lobbyist principal report due 3/15/2022

MN Energy Forum Action, \$150

7. Payment of late filing fee for original EIS

Ethan Cha, \$75

8. Payment of civil penalty for disclaimer violation

Lisa Hanson for Senate, \$200

9. Forwarded anonymous contributions

Greg Boe for State House, \$50
1st Congressional District RPM, \$25
Keith Ellison for Attorney General, \$130

PRIMA FACIE DETERMINATIONS

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

LEGAL COUNSEL'S REPORT

Prior to the meeting Mr. Hartshorn provided members with a legal report that is attached to and made a part of these minutes. Mr. Kaisershot presented the report to the Board and stated that Mr. Hartshorn anticipates filing a motion for default judgment in the Ashley Martinez-Perez matter within the next couple months.

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 reported the following matters into regular session:

Findings:

- In the Matter of the Complaint of John Persell regarding the Eichorn (Justin) for MN Senate Campaign Committee
- In the Matter of the Complaint of John Persell regarding the Matt Bliss for House committee

Dismissal:

- In the Matter of the Complaint of Marc Asch regarding The Republican Party of Minnesota
- In the Matter of the Complaint of George Selvestra regarding the Committee to Elect Josh Heintzeman
- In the Matter of the Complaint of Wayne Severud regarding the Vote for Loonan (Robert) committee and Loonan and Loonan Consulting

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

Respectfully submitted,



Jeff Sigurdson
Executive Director

Attachments:

Executive Director's report

Draft Annual Report of Board Operations for Fiscal Year 2022

Memorandum regarding reconciliation of contributions between registered committees

Memorandum regarding guidelines for civil penalties in conciliation matters

Memorandum regarding prima facie determinations finding no violation

Determination in Complaint of Jon Erik Kingstad regarding Jim Schultz For Minnesota Attorney General, *et al.*

Determination in Complaint of Minnesota DFL regarding Dr. Scott Jensen for Governor and Heal Minnesota

Determination in Complaint of Minnesota DFL regarding the Kim Crockett for Secretary of State Committee and the American Principles Project PAC-Minnesota Fund

Determination in Complaint of Chantal Oechsle regarding the Bernie (Perryman) for House Committee
Legal report