

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

**RECONSIDERATION OF
PRIMA FACIE DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF JAMES SANBORN REGARDING THE BOB FREY MN COMMITTEE:

The undersigned member of the Minnesota Campaign Finance and Public Disclosure Board has made a prima facie determination that the revised complaint submitted in the aforementioned matter is sufficient to allege a violation of Chapter 10A or of those sections of Chapter 211B under the Board's jurisdiction.

The revised complaint alleges that the respondent's actions included the following:

- The Bob Frey MN Committee violated Minn. Stat. § 10A.27, subd. 8, when it accepted a personal loan from the candidate in excess of \$5,000.

Determination:

The complaint alleges that Mr. Frey made a loan of \$9,000 to his principal campaign committee on June 2, 2014, as reported by his principal campaign committee on its 2014 Pre-primary-election Report of Receipts and Expenditures.

Minn. Stat. § 10A.27, subd. 8, states that "[a] candidate must not permit the candidate's principal campaign committee to accept a loan from other than a financial institution for an amount in excess of the contribution limits imposed by that section." Personal contributions to principal campaign committees by candidates who sign the public subsidy agreement are limited by Minn. Stat. § 10A.27, subd. 10, to five times the standard contribution limit for that candidate. The contribution limit for a House candidate during the 2013-2014 election segment is \$1,000. Therefore, by signing a public subsidy agreement, Mr. Frey is limited to making a loan to his committee of \$5,000.

However, Minnesota Rules 4503.1500, subpart 2, provides that the balance due on a loan *at the end of the calendar year* must not exceed the applicable limit. This subpart could be read to support the conclusion that a balance due on a loan that exceeds the applicable limit prior to the end of the year is not a violation of the statutory excessive loan provision. It was on this basis that the Board initially determined that the original complaint did not state a prima facie violation on August 15, 2014.

Nevertheless, the statutory text of § 10A.27, subd. 8, states that accepting a loan in excess of the applicable limit is prohibited. The complaint alleges a failure to comply with this requirement. Therefore, the complaint alleges a prima facie violation of Chapter 10A or of those sections of Chapter 211B under the Board's jurisdiction. The Board will consider the potential conflict between the statutory requirement and the rule at its probable cause hearing.

/s/ Neil Peterson
Neil Peterson
Campaign Finance and Public Disclosure Board

Dated: 9/29, 2014