

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

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF THE LAND STEWARDSHIP ACTION FUND

The Land Stewardship Action Fund (LSAF) registered with the Campaign Finance and Public Disclosure Board as an independent expenditure political fund in September 2018. In late September and early October of 2018 the LSAF filed 24-hour notices disclosing three large contributions totaling \$29,000. On October 1, 2018, the LSAF filed its September 2018 report of receipts and expenditures disclosing over \$150,000 in contributions and over \$40,000 in expenditures. The LSAF amended that report 11 days later without explanation to reflect zero contributions and zero expenditures. The LSAF's pre-general report, filed on October 26, 2018, also disclosed zero contributions and zero expenditures. The pre-general report discloses all financial activity during the period from January 1, 2018, through October 22, 2018, and should have included the contributions the LSAF reported in the 24-hour notices.

While inquiring into the discrepancy between the periodic reports and the 24-hour notices, Board staff discovered that the LSAF had published six political advertisements on Facebook. The advertisements expressly advocated for the election or defeat of a clearly identified candidate, but lacked the required disclaimer for independent expenditures. Board staff noted that the cost of the six advertisements was not accounted for within the LSAF's 2018 pre-general report, despite the advertisements being published prior to the end of the reporting period covered by that report. On November 13, 2018, the executive director opened a staff review into the financial reports filed by the committee, and the lack of a campaign disclaimer on the Facebook advertisements.

On November 20, 2018, Amelia Shoptaugh, Operations and HR Manager for the LSAF, responded to the Board inquiry and explained that when submitting the 24-hour notices and the original September report of receipts and expenditures, the LSAF mistakenly disclosed the contributions and expenditures of its supporting association, as opposed to solely reporting those attributable to the political fund. The LSAF did not report the cost of the six Facebook advertisements in question on the pre-general report because it was not aware that it had been billed for the advertisements during the reporting period. The LSAF also mistakenly thought that it only needed to report expenditures after they were paid. After discussions with Board staff, the LSAF filed an amended 2018 pre-general report disclosing that it paid \$250 during the reporting period, and incurred an additional \$70.85 in charges that remained unpaid as of the end of the reporting period, for the advertisements in question.

Ms. Shoptaugh also conceded that the six advertisements identified by Board staff lacked the required disclaimer for independent expenditures. The advertisements in question were the first advertisements ever run by the fund, and the LSAF's staff believed that the disclaimer language added automatically by Facebook to political advertisements was sufficient. The disclaimer language added by Facebook states "Paid for by Land Stewardship Action Fund." The LSAF also provided a copy of an email from its legal counsel dated October 25, 2018, that instructed staff to add the disclaimer language from Minnesota Statutes section 211B.04 for independent expenditures to any advertisements constituting express advocacy. The LSAF states that independent expenditure advertisements published on Facebook after that date by the LSAF contained the required disclaimer.

On December 5, 2018, Ms. Shoptaugh further provided that the cost to publish the six advertisements in question on Facebook was \$350. This amount includes some charges incurred after the end of the reporting period covered by the pre-general report. The LSAF stated that Facebook's metrics show that the six advertisements were presented to a total of 16,691 unique users.

Analysis

Minnesota Statutes section 10A.20, subdivision 3, requires reports of receipts and expenditures to include expenditures made during the reporting period, including any advance of credit incurred by the entity filing the report. Minnesota Statutes section 10A.20, subdivision 9, defines campaign expenditures to include advances of credit. Minnesota Statutes section 10A.01, subdivision 3, defines advance of credit to mean "any money owed for goods provided or services rendered." The initial pre-general report filed by the LSAF did not disclose the unpaid cost of the Facebook advertisements nor the \$250 that was paid for those advertisements during the reporting period.

When a fund becomes aware of an error or omission in a report previously filed with the Board, Minnesota Statutes section 10A.025, subdivision 4, requires the fund to file an amended report within 10 days of becoming aware of the inaccuracy. Submission of an amended report that accurately corrects the error or omission resolves a violation of the reporting requirements in Minnesota Statutes section 10A.20. The amended pre-general report filed on December 7, 2018, corrected the omissions of the initial pre-general report.

Minnesota Statutes section 211B.04 requires written independent expenditure advertisements to include a disclaimer stating "This is an independent expenditure prepared and paid for by (name of entity participating in the expenditure), (address). It is not coordinated with or approved by any candidate nor is any candidate responsible for it." An independent expenditure is defined by Minnesota Statutes section 10A.01, subdivision 18, to be "an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is 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." The six Facebook advertisements expressly advocated for the election of a clearly identified candidate. The advertisements therefore were independent expenditures that required a disclaimer in the form established by Minnesota Statutes section 211B.04, subdivision 2.

Based on the above analysis, the Board makes the following:

Findings of Fact

1. The Land Stewardship Action Fund prepared and disseminated six independent expenditure advertisements that expressly advocated for the election of a clearly identified candidate.
2. Costs incurred for the advertisements during the reporting period were not included on the Land Stewardship Action Fund's 2018 pre-general report filed October 26, 2018.
3. The six Facebook advertisements did not include the required disclaimer for independent expenditures.

4. The six Facebook advertisements were collectively disseminated to approximately 16,691 Facebook users.
5. The total cost of the advertisements was \$350.
6. The Land Stewardship Action Fund amended its 2018 pre-general report December 7, 2018, to include the costs incurred for the advertisements during the reporting period.
7. The Land Stewardship Action Fund added the required disclaimer to subsequent Facebook advertisements after notification of the requirement in late October of 2018.
8. The Land Stewardship Action Fund promptly amended its 2018 pre-general report upon becoming aware of the reporting error.

Based on the analysis and the findings of fact, the Board makes the following:

Conclusions of Law

1. The six Facebook advertisements prepared and disseminated by the Land Stewardship Action Fund were independent expenditures under Minnesota Statutes section 10A.01, subdivision 18.
2. The Land Stewardship Action Fund violated Minnesota Statutes section 10A.20, subdivision 3, when it failed to disclose on its 2018 pre-general report the unpaid obligation as well as the \$250 it paid during the reporting period for the six Facebook advertisements. However, that error was remedied by the filing of an amended 2018 pre-general report on December 7, 2018.
3. The Land Stewardship Action Fund violated Minnesota Statutes section 211B.04, subdivision 1, when it prepared and disseminated the six Facebook advertisements without the required disclaimer for independent expenditures.

Based on the above Findings of Fact and Conclusions of Law, the Board issues the following:

Order

1. A civil penalty in the amount of \$200 is assessed against the Land Stewardship Action Fund for violating the disclaimer requirement in Minnesota Statutes section 211B.04.
2. The Land Stewardship Action Fund is directed to forward to the Board payment of the civil penalty, by check or money order payable to the State of Minnesota, within 30 days of receipt of this order.
3. If the Land Stewardship Action Fund does not comply with the provisions of this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.

