

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

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF THE BRAD KOVACH COMMITTEE TO ELECT FOR HOUSE

Background

The Brad Kovach Committee to Elect for House is the principal campaign committee of Brad Kovach, a candidate for Minnesota House District 30B. The committee's 2019 year-end and 2020 pre-primary reports of receipts and expenditures disclosed monetary contributions received totaling \$2,000 from Kathleen Krog and \$1,600 from Richard Kovach. Those totals exceeded the individual contribution limit during the 2019-2020 election cycle, which for a candidate for state representative was \$1,000 under Minnesota Statutes section 10A.27, subdivision 1.

In August 2020 the Board's executive director opened a staff review regarding contributions accepted by the Kovach committee in excess of the individual contribution limit. Board staff notified the committee of the need to return the excess amounts. Board staff explained that because the \$600 excess from Richard Kovach consisted of a contribution received in July 2020, the committee could return that contribution within 90 days of deposit and thereby avoid a violation with respect to that contributor. In an email received on September 21, 2020, Brad Kovach stated "I will return the \$600 to Richard Kovach and let you know with documentation in hand when I do. Similarly I will do the same for Kathleen Krog and provide a copy of the check. Both use out of state banks and it will take me about two weeks at the most to complete these."

Because the excess amount given by Ms. Krog consisted of contributions deposited more than 90 days prior to Board staff becoming aware of the issue, those contributions were deemed to be accepted under Minnesota Statutes section 10A.15, subdivision 3. At its meeting on October 7, 2020, the Board approved a conciliation agreement with the Kovach committee to resolve the excess contributions from Ms. Krog, and Brad Kovach signed the agreement on October 15, 2020. The agreement did not address the excess amount given by Richard Kovach because the Kovach committee stated that it would return that amount within 90 days of deposit.

In December 2020 Board staff emailed Brad Kovach and the Kovach committee's treasurer reminding them that they had not yet provided documentation showing that the excess amounts were returned to each contributor. Board staff also called and spoke with Brad Kovach in January 2021. On February 2, 2021, Brad Kovach replied to an email from Board staff stating "I am executing both payments this week and will have the transaction paperwork to you by the end of the week." That email and the committee's 2020 year-end report filed on January 28, 2021, reflect that the committee did not return \$600 to Richard Kovach within 90 days of deposit. On February 22, 2021, Brad Kovach provided documentation showing that the

committee refunded \$1,000 to Ms. Krog on February 4, 2021, and refunded \$600 to Richard Kovach on February 17, 2021.

Analysis

Minnesota Statutes section 10A.27, subdivision 1, prohibits the principal campaign committee of a candidate for state representative from accepting contributions totaling more than \$1,000 from any individual during a two-year election cycle. A contribution that is not returned within 90 days of deposit is deemed to be accepted under Minnesota Statutes section 10A.15, subdivision 3. A candidate who permits the candidate's principal campaign committee to accept contributions in excess of the individual contribution limit is subject to a civil penalty of up to four times the amount of the violation under Minnesota Statutes section 10A.28, subdivision 2. When deciding whether to impose a civil penalty, and the amount of that penalty, the Board considers several factors.¹ When imposing a civil penalty under Minnesota Statutes section 10A.28 for a first-time violation of a contribution or expenditure limit, the Board typically imposes a civil penalty of one times the amount of the violation.

The Brad Kovach Committee to Elect for House registered with the Board in July 2019 and has no history of previous violations. The committee did not use the Board's Campaign Finance Reporter software to record contributions received in 2019, which prevented the software from displaying a warning message when contributions received in 2020 were entered that caused the committee to exceed the individual contribution limit. In August 2020 the committee was advised of the need to promptly return \$600 to Richard Kovach in order to avoid violating the individual contribution limit with respect to that contributor and the committee failed to do so. After being advised of the need to return excess contributions in early August of 2020, the committee received a public subsidy payment exceeding \$3,500 and received additional contributions totaling at least \$2,950 according to the committee's 2020 year-end report. The failure to promptly return excess contributions provided a small, but not insignificant, economic benefit to the committee during the campaign. The committee reported a cash balance of less than \$4 as of the end of 2020 and the committee may have limited ability to raise additional funds. Considering those factors, the Board will impose a civil penalty of one times the amount of the violation involving contributions from Richard Kovach.

¹ Minnesota Statutes section 14.045, subdivision 3, lists factors that agencies must consider when setting the amount of a fine including the gravity, willfulness, and number of violations; the offender's past violations and economic benefit; and any other factor that justice requires.

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

Findings of Fact

1. The Brad Kovach Committee to Elect for House accepted contributions from Richard Kovach during the 2019-2020 election cycle consisting of \$1,000 received in October 2019 and \$600 received in July 2020. In total, the contributions from Richard Kovach exceeded the contribution limit from an individual by \$600.
2. The committee did not use the Board's Campaign Finance Reporter software to record contributions received in 2019. Therefore, when the committee used the software to record contributions received in 2020, the software did not provide a warning message when contributions were entered that, when combined with contributions received in 2019 from the same contributor, exceeded the individual contribution limit.
3. Starting in August 2020 and continuing over the course of several months, the Board attempted via informal methods to correct the excess amount received by the committee from Richard Kovach.
4. Brad Kovach stated that the committee would return \$600 to Richard Kovach within 90 days of deposit but the committee failed to do so.
5. The committee refunded \$600 to Richard Kovach on February 17, 2021.
6. The committee has no history of past violations.
7. By failing to return the \$600 excess amount to Richard Kovach within 90 days of deposit, the committee willfully violated the individual contribution limit with respect to that contributor.
8. The economic benefit to the committee resulting from the violation was small but not insignificant.

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

Conclusions of Law

1. The Brad Kovach Committee to Elect for House violated Minnesota Statutes section 10A.27, subdivision 1, when it accepted contributions in excess of the individual contribution limit from Richard Kovach during the 2019-2020 election cycle.

Based on the above findings of fact and conclusions of law, the Board issues the following:

Order

1. A civil penalty of \$600 is imposed against the Brad Kovach Committee to Elect for House for its violation of the individual contribution limit. Within 30 days of the date of this order the committee must pay the civil penalty or enter into a payment plan with the Executive Director. If the committee enters into a payment plan, the total repayment period may not exceed 12 months.
2. If the committee 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.
3. The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

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

Date: March 3, 2021