

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

**Findings and Order In The Matter Of
A Complaint Regarding the Friends of Matt Dean Committee**

Summary of Allegations and Responses

On September 11, 2006, Jason Gonnion ("Complainant") filed a complaint with the Campaign Finance and Public Disclosure Board ("the Board") against the Friends of Matt Dean Committee ("the Committee").

The Complainant alleged that the Committee distributed a "Session Update piece of literature" more than 60 days after the end of the 2006 legislative session but reported the cost of the literature as a noncampaign disbursement on the 2006 Preprimary Report of Receipts and Expenditures. Specifically, Mr. Gonnion states, "It is my understanding that this literature has to be distributed within 60 days of the end of the session or it becomes a Campaign Expenditure that counts against the total of what you can spend on the race." Mr. Gonnion further states, "I have been notified by several individuals in our legislative district who have received multiple copies of this literature in the last month..."

In support of the allegation the Complainant notes that the Committee's 2006 preprimary Report of Receipts and Expenditures disclosed a \$5,352.14 noncampaign disbursement for a "session update". The report did not disclose any campaign expenditures for printing of a session update.

By letter dated July 25, 2006, Representative Dean was notified of the complaint and afforded an opportunity to respond. With the notification the Board asked for information on the mailing or distribution date(s) of session updates provided as a constituent service. In a letter dated September 14, 2006, Laura Dean, Treasurer, responded on behalf of the Committee. The Committee filed an amended preprimary report of Receipts and Expenditures on September 15, 2006.

In response to the Complainant's allegation that the Committee failed to report at least a portion of the cost of the production and mailing of a session update as a campaign expenditure Ms. Dean states, "You...asked, on what date was the legislative update mailed to constituents. The mail date was Feb 27, 2006." In support of this statement Ms. Dean provided copies of two invoices from the vendor that printed and distributed the session update. The invoices show that the session updates were mailed to constituents through the St. Paul United States Postal Service on February 27, 2006. The total cost of producing and mailing the session update was \$5,352.14.

Ms. Dean also stated in the Committee's response, "To ensure that your investigation is complete and accurate, I am also enclosing a copy of "Piece 2, Legislative Report", a copy of ...invoice #8119 ... This information documents that a second literature piece was created and mailed at the conclusion of the legislative session. This piece was mailed on July 6, 2006."

The invoice numbered 8119 appears to be for \$6,619.89 to cover the expense of printing and mailing a "Legislative Report". The invoice also shows a payment of \$3,000 made by the Committee and an outstanding balance of \$3,619.89. The Committee's 2005 Report of Receipts and Expenditures discloses a \$3,000 campaign expenditure to the vendor for printing.

The amended 2006 Report of Receipts and Expenditures discloses the \$3,619.89 as two unpaid bills to this vendor; \$2,546.64 as a noncampaign disbursement and \$1,073.26 as a campaign expenditure.

Board staff contacted Ms. Dean on September 28, 2006, for an explanation of how the Committee determined the allocation of the cost of the "legislative report" between campaign expenditure and noncampaign disbursement. In response the Committee filed on October 2, 2006, a second amendment to the 2006 preprimary Report of Receipts and Expenditures and submitted two work sheets which provided additional detail on the printing of the "Session Update" and "Legislative Report".

The work sheet for the "Session Update" provides that 350 of the updates were used at post session literature drops. The cost of the 350 pieces is calculated at \$77.60. The amended preprimary Report discloses \$77.60 of the cost of the "Session Update" as a campaign expenditure and reduces the noncampaign disbursement for the piece to \$5,274.54.

The work sheet for the "Legislative Report" provides that the Committee mailed 14,777 pieces of the literature and obtained an additional 10,223 pieces for literature drops. The cost of the 10,223 pieces is \$1,560.66 which the committee categorizes as a campaign expenditure. The cost of printing and mailing the 14,777 pieces of literature (\$5,060.23) is divided equally between campaign expenditures and noncampaign disbursements. The committee uses the \$3,000 payment to the vendor in 2005 to cover all but \$1,090.28 of the campaign expenditure portion of the legislative report.

The matter was considered by the Board in executive sessions on September 15, 2006, and October 17, 2006. The Board's decision was based upon the complaint, the responses from Ms. Dean, and Board records.

Board Analysis

Incumbent legislators may spend funds from their campaign committee to provide "constituent services" as provided for in Minnesota Statutes, section 10A.01, subdivision 26, clause (6). A constituent service is defined in Minnesota Rules part 4503.0100, subpart 6, as "services performed or provided by an incumbent legislator or constitutional officer for the benefit of one or more residents of the official's district". Literature from a legislator that describes events during the legislative session, commonly referred to as a legislative update or report, is a form of constituent service.

Minnesota Statutes, section 10A.01, subdivision 26, clause (6), provides that constituent services that are provided from the beginning of the term of office until the legislature adjourns sine die may be classified entirely as noncampaign disbursements. Constituent services that occur during the first sixty days after the legislature adjourns sine die may be allocated 50% campaign expenditure, 50% noncampaign expenditure. A constituent service provided more than sixty days after the adjournment of the legislature sine die must be allocated totally as a campaign expenditure.

The Minnesota legislature adjourned sine die on May 21, 2006. The period during which constituent services may be allocated 50% campaign expenditure and 50% noncampaign disbursement ran from May 22 to July 21, 2006. Constituent services provided after July 21, 2006, are campaign expenditures.

The legislative "session update" printed and mailed on February 27, 2006, (at the cost of \$5,274.54) occurred prior to adjournment sine die and was properly reported as a noncampaign disbursement.

The cost of the second "legislative report" printed and mailed on July 6, 2006, (at the cost of \$5,060.23) occurred during the period when constituent services may be allocated 50% campaign expenditure and 50% noncampaign disbursement. In paying the campaign expenditure portion of the cost of this mailing the committee uses a campaign expenditure payment made to the vendor in 2005 for the legislative report.

Because the payment made to the vendor in 2005 was at least in part for a constituent service that was planned to occur after the session ended the \$3,000 payment should be allocated to reflect that it was partially a noncampaign disbursement. The 10,223 pieces purchased for use in door to door literature drops at a cost of \$1,560.66 is deducted from the \$3,000 payment as a campaign expenditure. This leaves \$1,439.34 to allocate evenly (\$719.67) as a campaign expenditure and as a noncampaign disbursement in 2005 for payment of the legislative report.

The total cost of the legislative report mailed as a constituent service is \$5,059.23. Subtracting the 2005 payment of \$1,439.24 leaves \$3619.89 as an unpaid bill. The even allocation of this amount leaves an unpaid campaign expenditure of \$1,809.94 and an unpaid noncampaign disbursement of \$1,809.94.

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

Findings Concerning Probable Cause

1. There is evidence that the Friends of Matt Dean Committee failed to report unpaid campaign expenditures and noncampaign disbursements related to the printing and distribution of a "legislative report".
2. There is evidence that the payment made in 2005 by the Friends of Matt Dean Committee was in part for a constituent service that would occur after the adjournment of the legislative session sine die. The cost of the constituent service should be allocated 50% campaign expenditure and 50% noncampaign disbursement.
3. There is no evidence that the reporting errors were intentional or done in order to circumvent the applicable 2005 or 2006 campaign expenditure limits.

Based on the above Findings, the Board issues the following:

Order

1. The Friends of Matt Dean Committee is ordered to amend its 2005 Report of Receipts and Expenditures to disclose a \$2,280.33 campaign expenditure and a \$719.67 noncampaign disbursement for printing of the "legislative report". The amended report must be filed within 10 days of the Committee receiving this order.
2. The Friends of Matt Dean Committee is ordered to amend the 2006 Preprimary Report of Receipts and Expenditures to show an unpaid noncampaign disbursement of \$1,809.94, and an unpaid campaign expenditure of \$1,809.94 for the printing and distribution of the "legislative report". The amended report must be filed within 10 days of the Committee receiving this order.
3. The Board's investigation into this matter is concluded and all records of the investigation is hereby entered into the public record in accordance with Minnesota Statutes, section 10A.02, subd. 11.

Board staff shall provide copies of these Findings to Jason Gonnion and Representative Dean.

Dated: October 17, 2006

A handwritten signature in black ink, appearing to read "Bob Milbert", written over a horizontal line.

Bob Milbert, Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

Minnesota Statutes, section 10A.01, subdivision 26. Noncampaign disbursement.

"Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes: ...

- (6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die; ...

4503.0100 Definitions. Subpart 6. Services for a constituent; constituent services.

"Services for a constituent" or "constituent services" means services performed or provided by an incumbent legislator or constitutional officer for the benefit of one or more residents of the official's district, but does not include gifts, congratulatory advertisements, charitable contributions, or similar expenditures.