

Minnesota

***Campaign Finance and
Public Disclosure Board Meeting***

Wednesday, August 14, 2019
10:30 A.M.
St Croix Room
Centennial Office Building

REGULAR SESSION AGENDA

1. **Approval of Minutes** (June 26, 2019)
2. **Chair's report**
 - a. Meeting schedule
3. **Executive director report**
4. **Enforcement report**
5. **Format of findings issued by the Board**
6. **Legal report**
7. **Other business**

EXECUTIVE SESSION

Immediately following regular session

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

.....
**June 26, 2019
Room G-31
Minnesota Judicial Center**
.....

MINUTES

The meeting was called to order by Chair Leppik.

Members present: Flynn, Leppik, Moilanen, Swanson

Members absent: Haugen, Rosen

Others present: Sigurdson, Engelhardt, Olson, staff; Hartshorn, counsel

Although Member Rosen planned to attend by telephone, he ultimately was unable to participate in any portion of the meeting. Because notice of a meeting by electronic means had been given and because it could not be ascertained whether any members of the public were participating in the meeting by telephone, roll call votes were taken.

MINUTES (June 5, 2019)

After discussion, the following motion was made:

Member Flynn's motion: To approve the June 5, 2019, minutes as drafted.

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

CHAIR'S REPORT

A. Meeting schedule

The next Board meeting is scheduled for 10:30 a.m. on Wednesday, August 14, 2019.

EXECUTIVE DIRECTOR REPORT

Mr. Sigurdson told members that lobbyist reports for the first part of the year were due on June 17, 2019, and that only nine reports remained outstanding. Mr. Sigurdson attributed the high response rate to the outreach done by staff. Mr. Sigurdson then reviewed the proposed budget for fiscal year 2020. Mr. Sigurdson said that the Board would be able to maintain its current complement of nine staff members because the legislature and governor had approved the Board's request for a \$75,000 increase to the base budget. Mr. Sigurdson answered questions from members about other budget

items and said that any funds not spent during fiscal year 2020 would be carried over to the second year of the biennium.

After discussion, the following motion was made:

Member Leppik's motion: To ratify the proposed budget for fiscal year 2020.

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

Mr. Sigurdson next reviewed the workplace violence prevention and response plan. Mr. Sigurdson said that the plan's goal was to make employees aware of the services and reporting mechanisms available to them. Mr. Sigurdson said that the plan needed to be updated periodically by the executive director and that the Board needed to ratify the revised plan.

After discussion, the following motion was made:

Member Leppik's motion: To ratify the revised workplace violence prevention and response plan.

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

Mr. Sigurdson then discussed the Review of 2018 Campaign Expenditures and Contributions. Mr. Sigurdson said that this document provided information about spending and contribution trends at the 2018 election. Mr. Sigurdson stated that in an attempt to make the information more approachable the report relied heavily on graphs and charts. Mr. Sigurdson explained that the Board now has software that makes it easier and faster to create graphs and other visual representations of the information disclosed on campaign finance reports. Mr. Sigurdson asked members for feedback about the way that the information was presented in the Review. Members then discussed their impressions of the Review and their general concerns about graphically conveying information.

PRESENTATION TO THE BOARD BY KIM PETTMAN

Kim Pettman appeared by telephone to address the Board. Ms. Pettman said that she had served as a public official and on several advisory committees and now was a registered citizen lobbyist. Ms. Pettman also stated that she was a person with a disability. Ms. Pettman presented ideas for a two-tiered lobbyist registration system that would create a specific category for citizen lobbyists. Ms. Pettman said that she did not have many lobbying expenses to report and that she often worried about the substantial fees that can accrue for late lobbyist reports. Ms. Pettman said that her proposed two-tier system would allow people to have the benefits of being a registered lobbyist without the worry of the reporting responsibilities. Ms. Pettman also said that the economic interest forms and other public official responsibilities were confusing. Ms. Pettman asked for visual and audio aids to help the Board's regulated parties complete required forms and comply with their responsibilities. Ms. Pettman presented other ideas for increasing the diversity of and accessibility to Board programs, particularly for

citizens who live in greater Minnesota or who may have visual disabilities. Members asked Ms. Pettman several questions and thanked her for presenting her suggestions.

ENFORCEMENT REPORT

A. Discussion items

1. Request to refer matter to the Attorney General's Office – Rep. Carlos Mariani

Mr. Olson told members that this matter no longer needed to be discussed because Representative Mariani had filed his annual statement of economic interest.

2. DLCC Victory Fund (41122) – balance adjustment request

Mr. Olson told members that the DLCC Victory Fund was a political committee that had reported an ending cash balance for 2017 of \$29,379.14. Its bank statements reflected a balance at that time of \$26,296.30, a difference of \$3,082.84. Mr. Olson said that the difference reflected the combination of a downward discrepancy of \$163.63 from 2016 and an upward discrepancy of \$3,246.47 from 2017. In 2018, the committee hired a compliance firm, attempted to reconcile its records with past reports, and amended its reports for both 2016 and 2017. Mr. Olson stated that those amendments resulted in the ending cash balance for 2016 changing from the originally reported amount of \$270.33 to \$17,763.75 and the ending cash balance for 2017 changing from the originally reported amount of \$40,525.40 to \$29,379.14. However, the committee was unable to reconcile a total of \$3,082.84 and stated that its bank statements were not detailed enough to resolve the remaining discrepancy. Mr. Olson said that the treasurer had stated that the committee had adopted additional procedures to verify the accuracy of its beginning and ending cash balances. Mr. Olson said that the committee was asking the Board to adjust its 2017 ending cash balance downward from \$29,379.14 to \$26,296.30.

After discussion, the following motion was made:

Member Swanson's motion:

To approve the balance adjustment requested by the DLCC Victory Fund.

Vote on motion:

A roll call vote was taken. All members voted in the affirmative.

B. Waiver requests

14. Klabunde (Bryan) for MN House (17853) - \$2,000 in late filing fees, \$1,600 in civil penalties for 2017 and 2018 year-end reports

The Klabunde (Bryan) for MN House committee is the principal campaign committee of candidate Bryan Klabunde. Mr. Klabunde addressed the Board about this waiver request. Mr. Klabunde said that he had been dealing with difficult family and financial issues since the 2016 election. Mr. Klabunde

stated that he had worked with Board staff to amend the 2016 report and to file the 2017 and 2018 reports. Mr. Olson told members that the committee treasurer in 2016 had filed inaccurate reports and then had resigned. When the committee stopped responding to staff's reconciliation requests, the Board referred the matter to the attorney general's office in June 2018. Mr. Olson confirmed that Mr. Klabunde had worked with staff to file accurate reports. Mr. Olson said that those reports showed that the committee had violated the party unit contribution limit in 2016 and that Mr. Klabunde had entered into a conciliation agreement with the Board that essentially would require him personally to pay about \$2,300 to resolve that matter.

After discussion, the following motion was made:

Member Moilanen's motion:

To reduce the late filing fees to \$100 and to reduce the civil penalties to \$75.

Vote on motion:

A roll call vote was taken. All members voted in the affirmative.

<u>Name of Candidate or Committee</u>	<u>Late Fee & Civil Penalty Amount</u>	<u>Reason for Fine</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Kalliope Communications LLC (7283)	\$1,000 LFF \$1,000 CP	2018 principal report	Principal's founder had significant medical issues that prevented him from filing 2018 principal report. He mistakenly thought that all required reports had been filed. Report was filed 6/17/2019.	Member Flynn	To waive the late filing fee and civil penalty	Roll call vote taken. All members voted in the affirmative.
Ayrlahn (Johnson) Volunteer Committee (18415)	\$100 LFFs	24-hour notices due 2/22/2019 & 2/23/2019	Special election candidate installed CFR software on Friday, 2/22/2019, but wasn't able to get it working, register his committee, and file 24-hour notices until following Monday, 2/25/2019. Special primary was held 3/5/2019. Candidate was in contact with Board staff and made staff aware of contributions in question.	Member Flynn	To waive the late filing fees	Roll call vote taken. All members voted in the affirmative.
Brad Sanford for State Senate (17878)	\$25 LFF	2018 year-end report	Treasurer thought he filed no-change statement via CFR software on due date and filed it next day when he realized it had not been received. It appears that he mistakenly filed 2017 year-end report on due date rather than 2018 no-change statement.	Member Flynn	To waive the late filing fee	Roll call vote taken. All members voted in the affirmative.

<p>2nd Judicial District Republican Committee (41053)</p>	<p>\$675 LFF</p>	<p>2018 year-end report</p>	<p>Former treasurer resigned in July 2018. Chair was notified via mail and email that he was required to file committee's reports, and he proceeded to do so, listing himself as treasurer. Chair states he did not receive phone call or email before year-end report was due. Our records indicate he was emailed prior to due date and called on due date. Report was filed 3/12/2019. Committee has reported total of \$120 in contributions over 5-year span, and all those contributions were reportedly received in 2018. Committee could have terminated at end of 2015 or anytime thereafter, and chair has stated that committee now seeks to terminate its registration.</p>	<p>Member Flynn</p>	<p>To reduce the late filing fee to \$80</p>	<p>Roll call vote taken. All members voted in the affirmative.</p>
<p>People for Tom Anzelc (16512)</p>	<p>\$700 LFF</p>	<p>2018 year-end report</p>	<p>Candidate left office in January 2017. Committee treasurer died in April 2018. Candidate filed amended 2017 year-end report and 2018 year-end report on 3/13/2019. Committee registration has been terminated retroactive to 12/31/2018 so committee is not required to file any further reports.</p>	<p>Member Flynn</p>	<p>To reduce the late filing fee to \$85</p>	<p>Roll call vote taken. All members voted in the affirmative.</p>
<p>Committee to Elect Sean White (17958)</p>	<p>\$1,000 CP</p>	<p>2017 year-end report</p>	<p>Committee's only financial activity in 2017 was \$204 to maintain website. Report was filed in March 2019. Candidate has paid \$1,000 late filing fee and is only seeking waiver of civil penalty.</p>	<p>Member Flynn</p>	<p>To waive the civil penalty</p>	<p>Roll call vote taken. All members voted in the affirmative.</p>
<p>Friends of Jeff Martin for Judge (18382)</p>	<p>\$200 LFF</p>	<p>24-hour notice due 7/25/2018</p>	<p>Treasurer does not know why 24-hour notice was not filed until 7/31/2018. Candidate states that committee's funds have been donated to charity and bank account has been closed.</p>	<p>Member Swanson</p>	<p>To waive the late filing fee</p>	<p>Roll call vote taken. All members voted in the affirmative.</p>
<p>Local 28 Political Fund (30064)</p>	<p>\$1,000 LFF</p>	<p>24-hour notice due 8/2/2018</p>	<p>Supporting association didn't realize that 24-hour notice requirement applied to contributions from supporting association. Board typically reduces 24-hour notice late fee for first-time violation to \$250.</p>	<p>Member Leppik</p>	<p>To reduce the late filing fee to \$250</p>	<p>Roll call vote taken. All members voted in the affirmative.</p>

United Food & Commercial Workers Council 6 (30174)	\$2,000 LFFs	24-hour notices due 8/1/2018 & 11/1/2018	Political fund's supporting association hired new administrative assistant in 2018 and she did not fully understand 24-hour notice requirement. Board typically reduces 24-hour notice late fees for first-time violations to \$250 per violation. Political fund did incur \$400 LFF for 24-hour notice in 2016 but no waiver or reduction was granted.	Member Leppik	To reduce the late filing fee to \$250 per notice	Roll call vote taken. All members voted in the affirmative.
Mining Industry Leadership Fund (40914)	\$625 LFF	2018 year-end report	Treasurer had difficulty entering contributions into CFR software. She is a lobbyist and had little time to resolve issue during legislative session, particularly because her assistant accepted a different job during that time. Year-end report filed 3/10/2019 disclosed for first time 3 incoming contributions and 1 outgoing contribution that should have been disclosed on pre-general report.	No motion		
Iron Mining Assn of Minnesota (329)	\$300 LFF	2018 principal report	Lobbyist, who is president of principal, thought that filing of her lobbyist disbursement report covering second part of 2018 on 1/26/2019 satisfied requirement to file 2018 principal report. Principal report was filed 4/2/2019.	No motion		
South East Homes (7353)	\$1,000 LFF \$1,000 CP	2018 principal report	Owner of principal states she did not realize she was responsible for filing principal report despite speaking with Board staff in March 2019. Principal report was filed 6/14/2019.	Member Moilanen	To reduce the civil penalty to \$500	Roll call vote taken. All members voted in the affirmative.
Friends of Kaying (Thao) (17916)	\$2,000 LFFs \$1,600 CPs	2018 & 2017 year-end reports	Former treasurer resigned in mid-2017. First-time candidate thought committee bank account had been closed. Candidate received letters from Board but thought she didn't need to respond because her committee had not had any financial activity. Committee was referred to attorney general's office in June 2018. Candidate states she is not able to afford fees and penalties owed by committee, but is willing to pay amount remaining in committee bank account, which is \$893.42. Committee's only financial activity	Member Leppik	To reduce the late filing fees to \$500 and to reduce the civil penalties to \$393.42	Roll call vote taken. All members voted in the affirmative.

			in 2017 and 2018 was \$0.47 in miscellaneous income for each year. Both reports were filed 4/30/2019.			
Teach for America (6376)	\$75 LFF	2017 principal report	Staff member responsible for report left in March 2018 and this was first report filed under leadership of new executive director. Report was filed 3/20/2018.	No motion		
Red Lake Tribal Council (3797)	\$50 LFF	2018 principal report	Principal terminated relationship with sole lobbyist in late February 2019 and principal states that it did not understand that it needed to file principal report. Report was filed 3/19/2019.	No motion		

C. Informational Items

1. Payment of late filing fee for EIS

Scott Bruns, \$100
 Lucas Clayton, \$100
 Richard Hamer, \$100
 David Strohkirch, \$100

2. Payment of a late filing fee for 2018 pre-primary 24-hour notices

IFAPAC Minn, \$1,000
 Minnesotans for Bold Reform, \$500

3. Payment of late filing fee for 2018 pre-general 24-hour notices

Samantha Vang, \$500

4. Payment of late filing fee for 2018 year-end report of receipts and expenditures

28th Senate District DFL, \$250
 Kevin Burkart, \$225
 Ricky Englund, \$25
 Sara Freeman, \$50
 Shane Mekeland, \$25
 MN Organization of Republican Veterans (MORVets), \$25
 Elena Ostby, \$100
 TCO Political Action Committee, \$50
 Marla Vagts. \$25
 Yele-Mis Yang, \$25

5. Payment of civil penalty for late filing of 2018 year-end report of receipts and expenditures

28th Senate District DFL, \$250

6. Payment of late filing fee for lobbyist disbursement report due 1/15/19

Blake Johnson, \$450
Kelsey Johnson, \$175
Patrick Murray \$25

7. Payment of late filing fee for lobbyist principal report due 3/15/2019

Coca-Cola Refreshments, \$325
Minnesotans for Safe Fireworks, \$50
Restoration Counseling & Community Services, \$275
Lutheran Advocacy-Minnesota (LA-MN) (fka Lutheran Coalition for Public Policy in MN), \$125

8. Payment of civil penalty for excess special source contributions

Melissa Hortman, \$40
Jim Nash, \$250

9. Partial payment of civil penalty for spending limit violation

Doug Wardlow, \$10,000

LEGAL COUNSEL'S REPORT

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn had nothing to add to the legal report.

OTHER BUSINESS

Members expressed disappointment with the coverage of the Neighbors for Ilhan (Omar) decision, particularly that coverage's focus on tax, immigration, and criminal issues that were outside of the Board's jurisdiction. Members discussed whether changing the format of the Board's decisions would emphasize the campaign finance issues discussed in those documents. Mr. Sigurdson told members that the form for decisions in investigations was not established by statute and could be changed at members' direction. Mr. Sigurdson offered to find examples of other decision formats and members agreed that this would be helpful.

There was no other business to report.

EXECUTIVE SESSION

The chair recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair had nothing to report into regular session.

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

Respectfully submitted,

Jeff Sigurdson
Executive Director

Attachments:
Executive director's report
Legal report

DRAFT



MINNESOTA

CAMPAIGN FINANCE BOARD

Board Meeting Dates for Calendar Year 2019

Meetings are at **10:30 A.M.** unless otherwise noted.

2019

Wednesday, September 4

Wednesday, October 2

Wednesday, November 6

Wednesday, December 4



MINNESOTA CAMPAIGN FINANCE BOARD

Date: August 7, 2019

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Executive Director's Report – Board Operations

Program Updates

Lobbying Program

Each year Board staff produces a lobbyist summary on disbursements made to influence official actions in Minnesota. The summary provides 157 pages of detailed information on the lobbyists registered for each principal along with total lobbying disbursements reported during the year. The summary also provides an overview of total lobbying disbursements reported for various categories, and identifies the associations that made the largest expenditures by lobbying area in 2018.

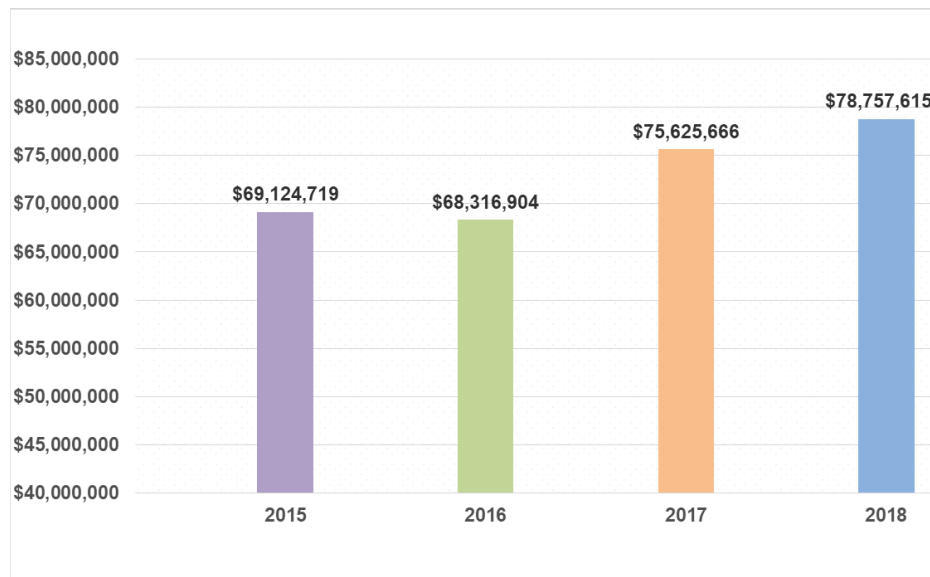
The summary is available on the Board's website at:

https://cfb.mn.gov/pdf/publications/reports/lobbyist_disbursement_summaries/lbsm_2018.pdf

A couple of interesting charts from the summary are shown below.

Lobbyist Principal Disbursements 2015 – 2018

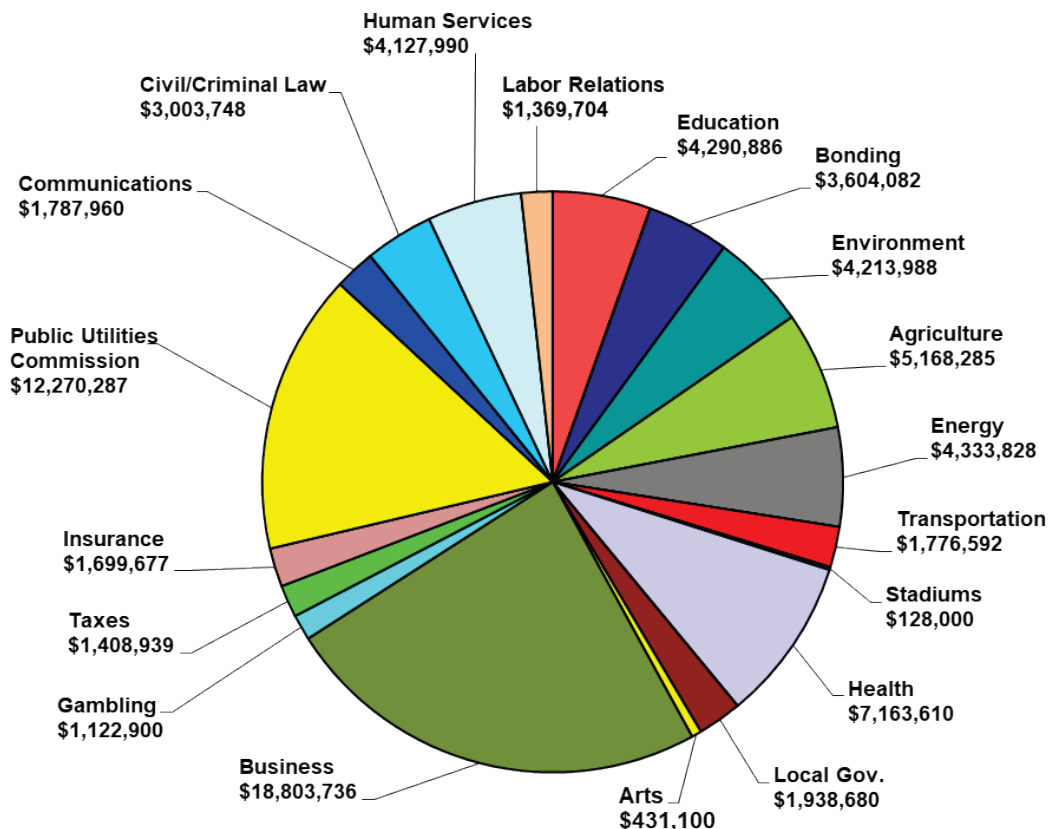
The total amount spent on influencing official actions increased by 10.7% between 2016 and 2017, with another 4.2% increase between 2017 and 2018. However, much of that increase can be attributed to a surge in spending related to the Public Utilities Commission. Spending to influence the Public Utilities Commission increased by 55% between 2016 and 2017, and increased by another 56% between 2017 and 2018.



Expenditures by Lobbying Subject

Once a year the designated lobbyist for each principal reports the subjects on which the lobbyists represented the association. By linking that information to the disbursements reported by the principal's lobbyists you get a fairly accurate picture of the amount spent on lobbying subjects during 2018. Board staff makes some assumptions when categorizing the subjects listed on the lobbyist reports into the nineteen broad subject areas used in the graph.

Expenditures on Selected Lobbying Subjects
As Reported in 2018



Economic Interest Statement Program

Staff has sent out a public official certification to each of the 353 boards, commissions, agencies, and other government units that have public officials who must file an economic interest statement (EIS) with the Board. The certification is used to update Board records on public officials who have been newly appointed, reappointed, or resigned during the year.

By statute appointing authorities are required to notify the Board of public official appointments. Board staff uses the appointment information to explain the EIS requirement and related deadlines to the appointee. In practice however, notifications are often late, and in some cases notification never occurs. Because of inconsistent appointment information the certification is becoming increasingly important to maintaining an accurate list of public officials and providing complete public disclosure of EIS filings.

Online Campaign Finance Reporter

For the past five months the Board's information technology staff have focused on developing an online version of Campaign Finance Reporter to replace the current PC based software. Although the current version of Campaign Finance Reporter is still functional, it requires the Windows operating system. This of course is problematic for a treasurer who has an Apple or Chrome computer.

To date the following steps have been completed or are underway:

- Two upgraded servers, on which the online version of the software and the related committee data will be hosted, have been purchased and installed.
- A test version of the application has been released to Board staff for initial testing. The test application currently has modules for processing contributions and expenditures. Modules for report generation and data importing and exporting are still under development. At some level all Board staff will be involved with the initial testing of the application. As the application matures, I plan to reach out to campaign committees that could spend some time evaluating screen layouts and overall functionality of the application. The web based application needs to be easier to learn, and generally more user friendly, in order for it to be viewed as a success.
- Linking of the application to an encrypted SQL database that will host committee data is scheduled to occur by the end of August.
- Development of online training videos to support the roll out of the application has not yet started.



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: August 7, 2019

To: Board members
Counsel Hartshorn

From: Andrew Olson, Legal/Management Analyst

Subject: Enforcement report for consideration at the August 14, 2019 Board meeting

A. Consent Items

1. Administrative termination of lobbyist Toni Stillday (3333)

The Red Lake Tribal Council requested that the registration of Ms. Stillday be terminated effective February 27, 2019, which is the date the principal severed its relationship with Ms. Stillday. Ms. Stillday was asked to file a termination statement but has not done so. Board staff administratively terminated Ms. Stillday's lobbyist registration effective February 27, 2019. Any lobbyist disbursements by Ms. Stillday in 2019 were included within the report filed by the principal's new lobbyist covering the period through May 31, 2019, so there are no outstanding reports.

2. Administrative termination of lobbyist John Benske (725)

AmerisourceBergen Corporation requested that the registration of Mr. Benske be terminated effective May 31, 2019, which is the date the principal severed its relationship with Mr. Benske. The principal states that Mr. Benske had no lobbyist disbursements to report in 2019. Board staff administratively terminated Mr. Benske's lobbyist registration effective May 31, 2019.

B. Discussion Items

1. Request to withdraw registration of political committee JB MOSS VOICE OF THE ELECTORATE (VOTE) (41221)

The committee, which is registered with the FEC, registered with the Board in October 2018 believing that to be necessary in order to make contributions to Minnesota state candidates. Because the committee did not give contributions to more than three Minnesota committees, funds, or party units in 2018, it was not required to register with the Board, and the committee has requested that its registration with the Board be withdrawn. The committee has provided the financial disclosure required for unregistered associations pursuant to Minnesota Statutes section 10A.27, subdivision 13.

C. Waiver Requests

#	Committee/ Entity	Late Fee/ Civil Penalty	Report Due	Factors	Most Recent Balance	Prior Waivers
1	Julie Bleyhl (5934)	\$25 LFF	1st 2019 lobbyist report	Lobbyist was caring for an ill parent and lost track of the due date of the report. The report was filed 6/18/2019.		No
2	Health East (3481)	\$1,000 LFF \$1,000 CP	2018 principal report	Principal's sole lobbyist filed a disbursement report in January 2018 that listed the name of an individual and a mailing address on the list of the principal's officers that differed from prior reports. The principal did not otherwise inform Board staff that its contact person and mailing address had changed. The lobbyist filed a termination statement in February 2018. The principal had merged with another company in mid-2017 and thereafter ceased to exist. The contact person Board staff had on file no longer worked for the principal when notices were sent regarding the 2018 principal report. The company that absorbed the principal became aware of the issue and then filed the principal report on 6/28/2019, disclosing \$0 in expenditures.		No
3	Mentoring Partnership of MN (5893)	\$500 LFF	2018 principal report	Principal did not update its mailing address with the Board when it changed in December 2017 and states that it was not aware of the need to file a report until it received a letter after the due date. There was a change in the principal's executive director in July 2018 and the sole lobbyist was terminated effective May 31, 2018. The report was filed 4/13/2019, disclosing \$0 in expenditures.		No
4	Village Green Residential Properties LLC (5195)	\$1,000 LFF \$1,000 CP	2016 principal report	Principal did not update its mailing address with the Board when it changed in 2016 and states that it did not receive mailed notices regarding the report. The sole lobbyist was terminated effective June 1, 2016. The report was filed 6/14/2019, disclosing \$0 in expenditures.		No
5	Delta Dental of MN (1513)	\$1,000 LFF \$1,000 CP	2018 principal report	Principal's VP, Government Relations, states he did not receive any notice from the Board regarding the need to file a report until he was called by Board staff in June 2019. The principal's address has not changed. The report was filed 6/26/2019, disclosing \$180,000 in expenditures.		No

D. Informational Items

1. Payment of late filing fee for 2018 pre-primary 24-hour notice

Flippable - MN Victory Fund, \$250
 Local 28 Political Fund, \$250
 United Food & Commercial Workers Council 6, \$250

2. Payment of late filing fees for 2018 pre-general 24-hour notices

Minnesota Jobs Coalition Legislative Fund, \$150
 United Food & Commercial Workers Council 6, \$250

3. Payment of late filing fee for 2017 year-end report of receipts and expenditures

Friends of Kaying (Thao), \$250

4. Payment of civil penalty for 2017 year-end report of receipts and expenditures

Friends of Kaying (Thao), \$196.50

5. Payment of late filing fee for 2018 year-end report of receipts and expenditures

2nd Judicial District Republican Committee, \$80

Ali (Ali) for Minnesota, \$400

Friends of Kaying (Thao), \$250.42

Mining Industry Leadership Fund, \$625

Minnesota Jobs Coalition Legislative Fund, \$275

People for Tom Anzelc, \$85

Resilient PAC, \$122.50 (partial payment)

6. Payment of civil penalty for 2018 year-end report of receipts and expenditures

Friends of Kaying (Thao), \$196.50

7. Payment of late filing fee for May 2018 report of receipts and expenditures

TEMPO Political Fund, \$100

8. Payment of late filing fee for lobbyist disbursement report due 1/15/2019

Scott Strand, \$25

9. Payment of late filing fee for lobbyist principal report due 3/15/2019

Abbott Laboratories, \$25

Energy Storage Association, Inc., \$325

Iron Mining Association of Minnesota, \$125

MN United Football Club, \$25

Red Lake Tribal Council, \$50

Teach for America, \$75

10. Payment of civil penalty for excess special source contributions

Jeff Hayden for Senate, \$815

Lang (Andrew) for Senate 17, \$395

Benson (Michelle) for Senate, \$1,800

11. Payment of civil penalty for excess party unit contributions

Becker-Finn (Jamie) for 42B, \$40.44

12. Payment of civil penalty for violation of § 211B.12

Ilhan Omar, \$500

13. Return of public subsidy due to exceeding carryforward limit

Ruth (Richardson) for House, \$458.06

14. Return of public subsidy to the extent it exceeded expenditures

Elect Albright (Tony) Committee, \$102.78

RED LAKE BAND of CHIPPEWA INDIANS

RED LAKE NATION HEADQUARTERS



OFFICERS:
DARRELL G. SEKI, SR., Chairman
SAMUEL R. STRONG, Secretary
ANNETTE JOHNSON, Treasurer

DISTRICT REPRESENTATIVES:
GARY NELSON
GLENDA J. MARTIN
JULIUS "TOADY" THUNDER
ALLEN PEMBERTON
ROBERT "BOB" SMITH
DONALD GOOD, SR.
ADRIAN BEAULIEU
MICHELLE (BARRETT) COBENAIS

PO Box 550, Red Lake, MN 56671

Phone 218-679-3341 • Fax 218-679-3378

ADVISORY COUNCIL:
7 HEREDITARY CHIEFS

June 25, 2019

Megan Engelhardt
Minnesota Campaign Finance Board
Assistant Executive Director
Suite 190
Centennial Office Building
658 Cedar Street St. Paul, MN 55155-1603

RE: Lobbyist Termination Statement

19 JUN 28 PM 1:25
CAMPAIGN FINANCE &
PUBLIC DISCLOSURE BOARD

Dear Ms. Engelhardt:

I am writing to inform the Minnesota Campaign Finance Board that on February 27, 2019, the Red Lake Nation Tribal Council terminated Toni Stillday, Registration Number 3333. Her role was the Legislative Liaison on behalf of the Red Lake Band of Chippewa Indians. It is my understanding Toni Stillday has not yet filed the Lobbyist Termination Statement prior to this date. Please accept this letter in place of the Lobbyist Termination Statement.

3797

Should you have any further questions, do not hesitate to contact me.

Sincerely,

Darrell G. Seki, Sr.
Chairman

file



19 JUN 26 AM 11:00
CAMPAIGN FINANCE &
PUBLIC DISCLOSURE BOARD

Rita E. Norton
Senior Vice President,
Government and Public Policy

AmerisourceBergen Corporation
412 1st Street SE - Suite 200
Washington, DC 20003

202.887.4942 Office Phone
888.211.1323 Office Fax
www.amerisourcebergen.com

June 13, 2019

Campaign Finance Board
658 Cedar Street
Suite 190
St. Paul, MN 55155

Dear Campaign Finance Board:

As the Authorized Representative for Employer AmerisourceBergen Corporation, ⁷⁵¹⁷ I would like to request that Minnesota lobbyist John Benske ⁷²⁵ please be administratively terminated from his lobbying registration with AmerisourceBergen. John Benske is no longer employed by AmerisourceBergen as of 5/31/2019.

In addition, lobbyist John Benske had no disbursements or expenditures to report for the current reporting period January 1 through May 31, 2019.

Sincerely,

A handwritten signature in blue ink that reads "Rita E Norton".

Rita E. Norton



J. B. MOSS VOICE OF THE ELECTORATE (VOTE)

Office and Professional Employees International Union

July 23, 2019

Campaign Finance & Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155-1603

Dear Board Members:

We are asking the Board to allow JB Moss Voice of the Electorate (VOTE) to withdraw the registration of its Minnesota political committee. The union's contributions to state-level candidates in Minnesota came from the union's FEC committee and the union mistakenly thought that it had to register in Minnesota to make those contributions. We later learned that because the FEC committee only gave to three or less state-level candidates in Minnesota, we were not required to register in Minnesota.

Going forward we will follow Minnesota's guidelines when making contributions from the FEC committee to Minnesota state-level candidates.

Thank you,

Mary Mahoney
Treasurer

Lobbyist Julie Bleyhl (5934)

From: Julie Bleyhl <Julie.Bleyhl@afscmemn.org>
Sent: Wednesday, June 19, 2019 1:38 PM
To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>
Subject: Waiver Request

Hi Megan:

I am writing to request a waiver of the fees for my lobbyist filing report. The report was filed today. My father is 94 and has pneumonia. I have been taking care of him and lost track of the dates. Thank you for calling me to remind me of the deadline and this request is a follow up to our conversation.

Would you please reply back to this email so that I know that you received it?

Thanks,
Julie
Sent from my iPad

Charles N. Nauen
cnnauen@locklaw.com
Direct: 612.596.4006

LOCKRIDGE
GRINDAL
NAUEN
P. L. L. P.
Attorneys at Law
www.locklaw.com

MINNEAPOLIS
Suite 2200
100 Washington Avenue South
Minneapolis, MN 55401-2179
T 612.339.6900
F 612.339.0981

July 11, 2019

VIA EMAIL

Jeff Sigurdson
Executive Director
jeff.sigurdson@state.mn.us
Minnesota Campaign Finance & Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155-1603

Re: HealthEast Annual Report for Lobbyist Principal

Dear Jeff:

I represent Fairview Health Services (“Fairview”) regarding this matter involving HealthEast. As a follow-up to our voicemails yesterday, I request a waiver of the late filing fees and penalty related to HealthEast’s 2018 Annual Report for Lobbyist Principal.

In June 2017, HealthEast merged into Fairview. As required by Minn. Rules §4511.0500 sub. 3, HealthEast’s designated lobbyist filed the required lobbyist disbursement report – dated January 2, 2018 - for the period beginning June 1, 2017 and ending December 31, 2017. The report included a change under “Schedule D – Officers and directors of entity represented” – now listing Mary Edwards with a new address at 2312 South 6th St., Minneapolis MN 55454. This change informed the Campaign Finance Board of the change in officer for HealthEast to reflect HealthEast’s June 2017 merger with Fairview.

In February 2018, HealthEast’s lobbyist filed a lobbyist termination with the CFPDB. The lobbyist was listed in Fairview’s 2017 and 2018 principal reports.

A March 29, 2019, letter from the CFPDB to Paul Torgerson, formerly of HealthEast, regarding filing of a 2018 HealthEast principal report was never received by Fairview. At that time, Mr. Torgerson was no longer an employee of HealthEast and was never an employee of Fairview. When Fairview became aware of the filing issue, Dan Larson of our office immediately contacted CFPDB Assistant Executive Director Megan Engelhardt. Ms. Engelhardt provided Dan the Torgerson letter. Fairview immediately electronically filed the 2018 HealthEast Principal Report.

Jeff Sigurdson, Executive Director
Minnesota Campaign Finance & Public Disclosure Board
July 11, 2019
Page 2

Under these circumstances, we respectfully request that the late filing fees and penalty be waived.

Please contact me if you have any questions. Thank you.

Very truly yours,

LOCKRIDGE GRINDAL NAUEN P.L.L.P.



Charles N. Nauen

c: Dan Larson
Fairview Health Services



July 1, 2019

Ms. Megan Engelhardt
Assistant Executive Director
Minnesota Campaign Finance Board
Centennial Office Building, Suite 190
658 Cedar Street
St. Paul, MN 55155-1603

Dear Ms. Engelhardt:

On behalf of MENTOR Minnesota, I am respectfully requesting a waiver of late filing fees for good cause. We failed to file a Lobbyist Principal Report on 3/15/2019, but upon receipt of notice of our failure to file, we filed in a timely manner. We did not receive earlier correspondence and did not have the institutional knowledge or tracking to ensure that it was filed properly. We have that now.

I joined the organization in July 2018, after the conclusion of the legislative session in 2018. I did not engage in any lobbying activities for MENTOR Minnesota in 2018. The previous executive director, Mai-Anh Kapanke, did not file the required report before she left in 2018, nor did she provide me with notice regarding the filing. In addition to the organizational transition with a new executive director in June/July 2018, the organization moved offices just a few months earlier. In December 2017, MENTOR Minnesota moved offices to our current location at the address listed below. It appears that the new address was not updated with the Campaign Finance Board.

Those factors combined to result in a delayed filing from MENTOR Minnesota. When we received notice that the filing was due, it was completed in a timely manner. The first notice received was the notice for failure to file. On April 6, the notice was sent from your office to Mai-Anh Kapanke's attention at our correct address. We received that letter some time the following week, the week of April 8-12. Our report was filed on April 12, 2019. Please see the attachments to this letter.

The Mentoring Partnership of Minnesota, doing business as MENTOR Minnesota, was established in 1994 and provides leadership, technical assistance, resources, and training to the nearly 200 programs serving 130,000 youth throughout the state of Minnesota. MENTOR Minnesota works with schools, businesses, community, and faith-based organizations to increase the number of young people with mentors, promote quality standards for mentoring, and to expand mentoring programming and opportunities. These services are essential for local mentoring programs that work tirelessly to provide positive experiences to young people through providing them with quality mentors. Our budget is small, under \$450,000. We currently only have two full-time employees. And although we do advocacy for mentoring and youth development, our focus is on education and not lobbying. We did not receive any state funds in 2018.

If you have any questions, please contact me directly at jessanna@mentormn.org or 612-800-5991.

Sincerely,

A handwritten signature in black ink that reads "Jess Anna Glover". The signature is written in a cursive, flowing style.

Jess Anna Glover, Executive Director



MINNESOTA CAMPAIGN FINANCE BOARD

**NOTICE OF FAILURE TO FILE
ANNUAL REPORT OF LOBBYIST PRINCIPAL**

CERTIFIED & FIRST CLASS MAIL

March 29, 2019

Mai-Anh Kapanke
Mentoring Partnership of MN
615 First Ave NE Ste 125
Minneapolis MN 55413

Dear Mai-Anh Kapanke:

On March 15, 2019, you were required by law to file with the Campaign Finance and Public Disclosure Board (Board) an Annual Report of Lobbyist Principal. The annual principal report discloses the total disbursements made by your association in 2018 for lobbying in Minnesota. On February 15, 2019, a notice was sent to you as a reminder of the requirement to file the report.

As of the date of this letter, we have not received the report. A daily late fee of \$25 per day began March 18, 2019.

In addition to the late fee, a Lobbyist Principal that fails to file the Annual Report of Lobbyist Principal within seven (7) days after this notice is sent, is subject to a civil penalty imposed by the Board of up to \$1,000.

To avoid the imposition of further late fees, please file the report electronically at our website <https://cfb.mn.gov/> On our homepage, click on Filer Resources, under Lobbying Filings, Principal's Report, then blue link "Sign in to the online principal reporting system." Enter your provided username and password. (If typing in the link, <https://principal.cfb.mn.gov/reporting/login> you must type the complete address)

To access the electronic filing system you must use the following specific user name and password. **Please note:** the password is case sensitive. Use only UPPER case letters.

User Name: [REDACTED]

Password: [REDACTED]

If you prefer, you may submit a paper report. You may print off a copy of the report at https://cfb.mn.gov/pdf/forms/lobbyist/prin_rpt.pdf or a report may be obtained by calling the Board office. If you have any questions about this notice or need assistance, please call Marcia Waller, Programs Administrator at 651-539-1187 or 800-657-3889.

Sincerely,

Jeff Sigurdson
Executive Director



Minneapolis
Campaign Finance
Suite 190, Center
658 Cedar Street
St. Paul, Minnesota



7012 3460 0000 5257 7324

FIRST CLASS



U.S. POSTAGE



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Mai-Ann Kapanke
Mentoring Partnership of MN
43 SE Main St Ste 509
Minneapolis MN 55414-1055

04/06





MINNESOTA CAMPAIGN FINANCE BOARD

NOTICE OF FAILURE TO FILE ANNUAL REPORT OF LOBBYIST PRINCIPAL

CERTIFIED & FIRST CLASS MAIL

March 29, 2019

Mai-Anh Kapanke
Mentoring Partnership of MN
615 First Ave NE Ste 125
Minneapolis MN 55413

re-sent

Dear Mai-Anh Kapanke:

On March 15, 2019, you were required by law to file with the Campaign Finance and Public Disclosure Board (Board) an Annual Report of Lobbyist Principal. The annual principal report discloses the total disbursements made by your association in 2018 for lobbying in Minnesota. On February 15, 2019, a notice was sent to you as a reminder of the requirement to file the report.

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To avoid the imposition of further late fees, please file the report electronically at our website <https://cfb.mn.gov/> On our homepage, click on Filer Resources, under Lobbying Filings, Principal's Report, then blue link "Sign in to the online principal reporting system." Enter your provided username and password. (If typing in the link, <https://principal.cfb.mn.gov/reporting/login> you must type the complete address)

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User Name:

Password:



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Sincerely,

Jeff Sigurdson
Executive Director

NO MOISTURE REQUIRED TO SEAL
TURN THIS FLAP UP • PRESS TOP FLAP DOWN

BOSTON

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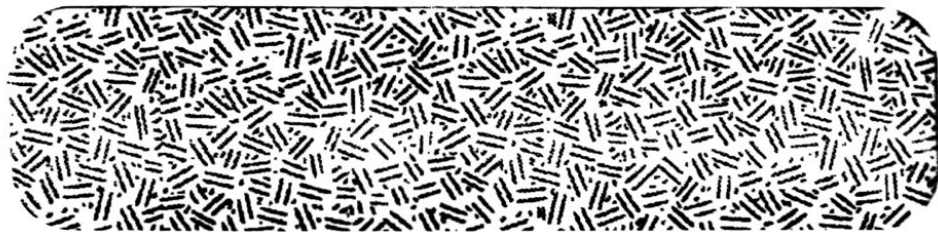
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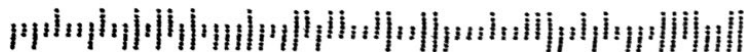
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ZIP 02111
041L10422135



5544-449133



Annual Report of Lobbyist Principal**Mentoring Partnership of MN (5893)**

Period Covered: January 1 through December 31, 2018

Due Date: 03/15/2019

Original Report Submitted: 04/12/2019

Report submitted. Waiting to be processed by the Board.

Your report has been successfully submitted to the Board.

Submission date: April 12, 2019

Lobbyist Principal InformationName of Principal: **Mentoring Partnership of MN** Identification number: **5893**

Name and Title of Individual Authorized to File This Principal Report:

Name: Jess Anna Glover Title: Executive Director

Address line 1: 43 SE Main St Ste 508

Address line 2:

City: Minneapolis State: MN Zip: 55414-1055

Daytime Telephone: (612) 800 - 5990

Website of Principal: <https://mentormn.org>Lobbyist Principal Email: jessanna@mentormn.org**Minnesota Expenditures**

- 1.) Amount spent to influence administrative action by the Minnesota Public Utilities Commission in cases of rate setting, power plant and powerline siting, and granting of certificates of need:
\$0.00
- 2.) Amount spent for all other lobbying expenditures in Minnesota not included in line 1:
\$0.00

From: Robert Platt <RPlatt@cityclubapts.com>
Sent: Tuesday, June 25, 2019 9:23 AM
To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>
Cc: Jonathan Borenstein <jrb@honigman.com>
Subject: 2016 Report of Lobbyist Principal

Dear Ms. Englehardt,

On behalf of Village Green Residential Properties L.L.C. and Jonathan Holtzman, this email constitutes our request to the Minnesota State Campaign Finance and Public Disclosure Board for a waiver of the late filing fee and penalty. During the time that Mr. Holtzman was CEO and Chairman of Village Green Management Company, he received his mail at the Northwestern Hwy address in Farmington Hills for many years. After completing the business separation with Village Green in 2016, he continued his family's 100-year old business through City Club Apartments, located at his new offices on Middlebelt Road.

In the past several years, we have used our best efforts to receive all correspondence and update everyone's contact information for City Club. Occasionally, we have not been able to receive important mail, such as the notices regarding filing the 2016 report. Obviously, we are fully committed to complying with the Board's filing requirements. This filing deadline issue was simply a clerical oversight, which has now been corrected. We appreciate your assistance and cooperation in this matter, and look forward to continuing to carry on business in the great State of Minnesota for years to come.

Thanks,

Rob Platt | CIO / COO | City Club Apartments
31700 Middlebelt Road, Suite 140 | Farmington Hills, MI 48334
(O) 248.385.3375 | (F) 248.385.3375 | rplatt@cityclubapts.com

Lobbyist Principal Delta Dental of MN (1513)

From: Joe Lally <jlally@deltadentalmn.org>

Sent: Tuesday, July 09, 2019 3:07 PM

To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>

Subject: Request for relief from late filing fee for Lobbyist Principal Report due March 15, 2019

Megan—

Following up on our telephone conversation, thank you for the user login information to file the above-referenced report, which was severely overdue. I filed it electronically, and then learned in my haste to send it, I inadvertently posted the dollars to the Public Utility Commission section, rather than to general legislative lobbying. I've since corrected that as of 7/3/2019.

I'm writing today to request relief from the late fee (\$1,000) and civil penalty (\$1,000). The failure to file was not intentional and as soon as I received your call, I immediately collected and confirmed expense information and submitted the report. I have also followed up internally to confirm that any mailing from the Campaign Finance Board be immediately forwarded to me. Although it appears from the document you sent, that the Board sent a reminder letter to me, I did not receive it. Had I received it, I would have immediately filed the report, as I did after you contacted me and sent me the sign in information.

Thanks for your consideration.

Joseph P. Lally, J.D.

Vice President, Government & Community Relations

Delta Dental of Minnesota

Executive Director

Delta Dental of Minnesota Foundation

500 Washington Avenue South, Suite 2060

Minneapolis, Minnesota 55415-1163

612.224.3229 (direct)

651.226.6646 (mobile)

This email and any files transmitted with it are intended solely for the individual or entity to who they are addressed. This communication may contain material that is privileged, confidential and protected from disclosure under the law. If you are not the intended recipient, any disclosure, distribution, copying, or use of this information is strictly prohibited and may be unlawful. If you have received this email in error, please reply immediately to the sender and delete it



MINNESOTA CAMPAIGN FINANCE BOARD

Date: August 7, 2019

To: Board members

From: Andrew Olson, Legal/Management Analyst

Telephone: 651-539-1190

Re: Format of Findings Issued by the Board

Historical Format of Findings Issued by the Board

The format of findings issued by the Board regarding investigations has remained relatively consistent since at least the early 1990s. Since 2014, findings have typically been labeled as “Findings, Conclusions, and Order.” On occasion they have been labeled as “Findings of Fact, Conclusions of Law, and Order.” Prior to 2014, they were typically labeled as “Findings and Order” or just “Findings.” The Office of Administrative Hearings (OAH) typically labels findings pertaining to Minnesota Statutes chapters 211A and 211B as “Findings of Fact, Conclusions of Law, and Order.”

Findings issued by the Board have often included one or two sections containing background information, facts revealed by the investigation, a summary of statements made by any complainant as well as the respondent, and the procedural history of the investigation. These sections have been titled “procedural background,” “background,” “summary of the facts,” “evidentiary findings,” or “statement of the evidence,” or had no title at all. Findings pertaining to investigations that were complex or concerned disputed legal issues, in particular, have often included a subsequent section summarizing the legal issues presented by the facts and the arguments offered to the Board, titled “analysis” or “Board analysis.” Since 2014, findings have generally included a subsequent section concisely listing facts that are vital to the Board’s conclusions, titled “findings of fact.” Next, findings have almost invariably contained a section consisting of legal conclusions, titled “conclusions of law,” “findings concerning probable cause,” or “conclusions concerning probable cause.” Finally, findings have contained a final section of text consisting of the order issued by the Board.

Findings issued by the Board have sometimes included pages, following the order, containing the text of relevant statutes and rules. Some findings have included charts or other graphical representations of information important to the investigation. On at least one occasion, the findings have included a memorandum following the order addressing the legal issues raised, as opposed to discussing those issues elsewhere within the findings.¹

¹ [In the matter of the Tim Pawlenty for Governor Campaign and the Republican Party of Minnesota \(Oct. 10, 2002\).](#)

Format of Findings Issued by the Office of Administrative Hearings

The format of findings issued by OAH panels regarding alleged violations of chapters 211A and 211B has varied slightly over time as well. Currently, the OAH generally issues findings containing six sections followed by a memorandum. The findings consist of a very brief untitled section consisting of the procedural history, the names of the complainant and respondent, and whether those parties were represented by counsel. That section is followed by a “statement of the issues” to be decided by the panel, followed by a section containing a very brief “summary of conclusions.” Next come the “findings of fact,” then a section containing the panel’s “conclusions of law.” These sections may consist of several pages, but are still brief and contain little or no discussion. The final section is the panel’s order. The memorandum that follows is part of the same document as the rest of the findings and its pages are numbered accordingly. The memorandum may be brief or extensive and may contain its own headings.

Possible Format to be Utilized by the Board

For purposes of comparison, I have attached the findings issued by an OAH panel in *Bruce v. Our Minnetrista, et al.*, OAH 71-0325-35774, in June 2019. That is followed by findings issued by the Board in January 2019, and a reformulated version of the Board’s findings, using the format utilized by the OAH. The reformulated version of the findings incorporates both the layout utilized by the OAH as well other stylistic differences, such as a 12-point font, the indentation of paragraphs, the use of all caps for headings, the inclusion of the matter’s internal file number, etc. In drafting findings in the future, Board staff could use the layout employed by OAH panels, with or without the other stylistic differences, depending on the preference of the Board.

The layout utilized by the OAH is particularly useful to readers in quickly identifying the conclusions reached and the actions taken, especially when the findings are lengthy. However, findings issued by the Board frequently consist of only 3-4 pages, in which case the utility of that format is limited.

Attachments

OAH Findings in *Bruce v. Our Minnetrista, et al.*

Board Findings in the matter of *Perske (Joe) for Senate*

Findings in the matter of *Perske (Joe) for Senate*, reformulated in the format used by the OAH

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Shannon Bruce,

Complainant,

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

vs.

Our Minnetrista, David Kolb, Karen
Danielson, Pam Mortenson, John
Tschumperlin, Patricia Thoele, and Lisa
Whalen,

Respondents.

This matter came on for an evidentiary hearing on May 7 and 8, 2019, before the following panel of Administrative Law Judges: Jessica A. Palmer-Denig (Presiding Judge); James E. LaFave, and Jim Mortenson¹ (the Panel). The record closed on June 7, 2019, upon submission of the parties' final written argument.

Erick G. Kaardal, Mohrman, Kaardal & Erickson, P.A., appeared on behalf of Complainant. David J. Zoll and David W. Asp, Lockridge Grindal Nauen, P.L.L.P., appeared on behalf of all Respondents.

STATEMENT OF THE ISSUES

1. Is Respondent Our Minnetrista² a "committee" under Minn. Stat. § 211A.01, subd. 4 (2018), and subject to campaign finance reporting requirements?
2. Did Respondent Our Minnetrista violate Minn. Stat. § 211A.02 (2018) by failing to file campaign financial reports on its own behalf?
3. Did Respondents Mortenson and Tschumperlin violate Minn. Stat. §§ 211A.06 and .12 (2018) in connection with their 2018 campaigns by failing to keep a correct account of Our Minnetrista's contributions and by accepting contributions in excess of \$600 from a single source?

¹ Administrative Law Judge Mortenson is not related to Respondent Mortenson.

² The Panel refers to Respondents Our Minnetrista, David Kolb, and Karen Danielson collectively as "Our Minnetrista." Kolb and Danielson were named in the complaint only in their capacity as Our Minnetrista's leaders and all of their actions relevant to this case were undertaken on behalf of Our Minnetrista. See *Abrahamson v. St. Louis C'ty Sch. Dist.*, 819 N.W. 2d 129, 133 (Minn. 2012).

4. Did Respondents Mortenson, Thoele, and Whalen violate Minn. Stat. §§ 211A.06 and .12 (2014), in connection with their 2014 campaigns by failing to keep a correct account of Our Minnetrista's contributions and by accepting contributions in excess of \$600 from a single source?

5. Are claims related to the 2014 campaigns barred by the one-year statute of limitations in Minn. Stat. § 211B.32, subd. 2 (2018)?

6. If the alleged violations are proven, what penalties are appropriate?

SUMMARY OF CONCLUSIONS

Respondent Our Minnetrista is a committee under Minn. Stat. § 211A.01, subd. 4. Our Minnetrista violated Minn. Stat. § 211A.02 in 2018 by failing to file campaign financial reports despite spending more than \$750 in support of candidates.

With regard to the 2018 campaigns, Respondents Mortenson and Tschumperlin violated Minn. Stat. § 211A.12 by accepting contributions in excess of \$600 from Our Minnetrista. Complainant failed to establish that Respondents Mortenson and Tschumperlin violated Minn. Stat. § 211A.06 in 2018.

Complainant's claims regarding the 2014 campaigns of Respondents Mortenson, Thoele, and Whalen are not time barred. Complainant demonstrated that Respondents Mortenson, Thoele, and Whalen violated Minn. Stat. § 211A.12 by accepting contributions in excess of \$600 from Our Minnetrista. Complainant failed to establish that Respondents Mortenson, Thoele, and Whalen violated Minn. Stat. § 211A.06 in 2014.

Our Minnetrista shall pay a penalty in the amount of \$2,000. Respondent Mortenson shall pay a penalty of \$1,200, and Respondents Thoele, Whalen, and Tschumperlin shall each pay a penalty in the amount of \$600.

FINDINGS OF FACT

I. Our Minnetrista

1. In March or April of 2014, a group of residents of Minnetrista, Minnesota joined together to express their concerns about city government and determined that they wished to elect individuals into office who shared their vision for the community.³ The group called itself "Our Minnetrista,"⁴ and it met approximately every four to six weeks during 2014.⁵

2. David Kolb and Karen Danielson were founding members of Our Minnetrista and both took on leadership roles in the organization.⁶

³ Testimony (Test.) of Karen Danielson; Test. of Deani Montang; Test. of Pam Mortenson; Exhibit (Ex.) 24.

⁴ Test. of K. Danielson.

⁵ *Id.*

⁶ Test. of David Kolb; Ex. 61.

3. Our Minnetrista established and maintained a website at the web address: www.ourminnetrista.org.⁷

II. 2014 Minnetrista City Elections

4. In 2014, Our Minnetrista promoted the election of three candidates to local office in the City of Minnetrista: Pam Mortenson, Lisa Whalen, and Patricia Thoele.⁸

5. Mortenson and Thoele ran for seats on the Minnetrista City Council. Neither Mortenson nor Thoele had run for public office before.⁹ Whalen sought election as mayor of Minnetrista. Prior to her 2014 mayoral bid, Whalen served for several years on the Minnetrista City Council.¹⁰

6. Our Minnetrista coordinated its campaign efforts in support of Mortenson, Whalen, and Thoele.¹¹ Our Minnetrista solicited contributions on behalf of all three candidates and prepared and disseminated campaign material that promoted all three candidates.¹²

7. Respondent Danielson volunteered to be Our Minnetrista's Treasurer/Finance Chair.¹³ The candidates considered Our Minnetrista to be their campaign committee and Danielson to be their campaign treasurer.¹⁴ The candidates had no other campaign committees.¹⁵

8. Danielson sought advice from the Minnetrista city clerk, the Minnesota Campaign Finance and Public Disclosure Board (Campaign Finance Board), and the Minnesota Office of the Secretary of State on how best to account for contributions and expenditures for multiple candidates.¹⁶

9. Respondent Kolb sent an email on July 18, 2014, informing members of Our Minnetrista that he and Danielson had been working on the best way to "structure the finances of the campaign."¹⁷ Kolb stated that Danielson had determined the best approach was to set up one campaign account under the name of Our Minnetrista, which would "be legally considered a 'committee' for reporting purposes."¹⁸ Kolb stated that Our Minnetrista would file three campaign financial reports, one for each candidate.¹⁹ Kolb directed members to make donations payable to Our Minnetrista and explained that

⁷ Ex. 24; Test. of D. Kolb.

⁸ Test. of Lisa Whalen; Ex. 63 at ¶ 11; Ex. 110.

⁹ Test. of P. Mortenson; Test. of Patricia Thoele.

¹⁰ Test. of L. Whalen.

¹¹ Ex. 61; Ex. 63 at ¶ 11; Ex. 110.

¹² Test. of K. Danielson; Ex. 63 at ¶ 11. See e.g., Ex. 110.

¹³ Test. of K. Danielson; Test. of P. Thoele; Test. of John Tschumperlin.

¹⁴ Test. of P. Mortenson; Test. of L. Whalen; Test. of P. Thoele.

¹⁵ Test. of P. Mortenson; Test. of L. Whalen; Test. of P. Thoele.

¹⁶ Test. of K. Danielson; Test. of P. Mortenson.

¹⁷ Ex. 61.

¹⁸ *Id.*

¹⁹ *Id.*

the contribution limit for an individual was \$1,800, or \$600 per candidate.²⁰ Kolb stressed the “need to follow the rules and keep very accurate records.”²¹

10. For the 2014 election, Danielson ultimately opened separate checking accounts at Wells Fargo under Our Minnetrista’s name with one account designated for each candidate.²²

11. An Our Minnetrista member established a PayPal account in Our Minnetrista’s name to accept online donations for the candidates.²³ Our Minnetrista was the PayPal account holder.²⁴ Online donations to the candidates via PayPal went to Our Minnetrista.²⁵

12. When it solicited contributions, Our Minnetrista directed donors to make checks payable to Our Minnetrista.²⁶ Our Minnetrista informed potential donors that, unless the donor indicated otherwise, contributions would be split evenly among the candidates.²⁷

13. Because contribution checks were made payable to Our Minnetrista and not the candidates, the candidates did not see the checks.²⁸ Instead, Danielson collected and deposited the checks.²⁹

14. Upon receiving contributions from donors, Danielson initially deposited the funds into one candidate’s account and then transferred equal shares to the other two accounts.³⁰ All contributions and expenditures were split evenly among the three candidates.³¹ Danielson maintained an electronic spreadsheet of all contributions received and expenditures made on behalf of the three candidates.³²

15. Our Minnetrista received at least one donation of \$750, six donations of \$1,000, and one donation of \$1,800 in 2014.³³ Danielson allocated these contributions in equal amounts to Mortenson, Thoele, and Whalen.³⁴

²⁰ *Id.*

²¹ *Id.*

²² Test. of K. Danielson; Ex. 63 at ¶ 11.

²³ Test. of K. Danielson; Exs. 37, 50.

²⁴ Ex. 37.

²⁵ *Id.*

²⁶ Test. of K. Danielson.

²⁷ Test. of K. Danielson; Test. of P. Mortenson; Ex. 111.

²⁸ Test. of L. Whalen.

²⁹ Test. of K. Danielson.

³⁰ *Id.*; Ex. 63 at ¶¶ 7, 10

³¹ Test. of L. Whalen; Test. of P. Mortenson; Test. of P. Thoele. See Exs. 3, 6, 9 (campaign finance reports disclosing contributions and expenditures in identical amounts for candidates Mortenson, Thoele and Whalen). See *also* Ex. 50 (copies of checks and PayPal receipt).

³² Test. of K. Danielson; Ex. 108.

³³ Exs. 50-52.

³⁴ Test. of K. Danielson: Exs. 3, 4, 6, 7, 9, 10, 63 at ¶¶ 7, 10.

16. Two donations to Our Minnetrista were drawn on corporate bank accounts, but these contributions were reported on the candidates' campaign financial reports as having been made by individuals.³⁵ These contributions were divided equally between the three candidates as well.³⁶

17. Our Minnetrista used contributions it received in 2014 to prepare and pay for a campaign flyer promoting the candidacies of Whalen, Thoele, and Mortenson. The flyer stated that the candidates were "endorsed by Our Minnetrista." The return mailing address on the flyer was: "Our Minnetrista, P.O. Box 321, Mound, MN 55364."³⁷ The cost of printing and mailing the flyer was spread equally among the three candidates' accounts.³⁸

18. Danielson prepared campaign financial reports for each candidate.³⁹ Danielson identified them as "candidate" reports as opposed to "campaign committee" reports.⁴⁰ She sent the reports to the candidates to review and approve,⁴¹ and upon receiving approval, Danielson filed the reports with the Minnetrista city clerk.⁴²

19. The campaign financial reports for Mortenson, Thoele, and Whalen did not list any contributions from Our Minnetrista.⁴³ Instead, Danielson listed all contributions as having come from the individuals who contributed to Our Minnetrista.⁴⁴ Mortenson, Thoele and Whalen were aware that the individual donors identified on their campaign financial reports had actually made their contributions to Our Minnetrista with the understanding that Our Minnetrista would apportion the contributions equally among the candidates.⁴⁵

20. Mortenson, Thoele and Whalen were also aware that the expenditures listed on their 2014 financial reports as having been made by them, were actually made by Our Minnetrista.⁴⁶

21. Because Danielson split all contributions and expenditures evenly among the three candidates, the 2014 campaign financial reports for Mortenson, Thoele and Whalen reflect nearly identical contribution and expenditure amounts.⁴⁷ For example, Danielson reported a \$7,838.82 payment to a vendor for printing services on each candidate's report as a \$2,612.94 printing expenditure.⁴⁸ Likewise, Danielson accounted

³⁵ Ex. 56; Test. of S. Bruce; Test. of K. Danielson; Ex. 100, 101, 103.

³⁶ Exs. 100, 101, 103.

³⁷ Ex. 110.

³⁸ Test. of K. Danielson.

³⁹ *Id.*

⁴⁰ See Exs. 3-11.

⁴¹ Test. of P. Mortenson; Test. of L. Whalen; Test. of P. Thoele; Test. of K. Danielson. See Exs. 59, 60.

⁴² Test. of K. Danielson; Ex. 63 at ¶ 14.

⁴³ See Exs. 3-11.

⁴⁴ See Exs. 3-11.

⁴⁵ Test. of P. Mortenson; Test. of P. Thoele; Test. of L. Whalen; Test. of K. Danielson.

⁴⁶ Test. of P. Mortenson; Test. of P. Thoele; Test. of L. Whalen; Test. of K. Danielson.

⁴⁷ Test. of K. Danielson. See Exs. 3-11.

⁴⁸ Test. of S. Bruce. See Exs. 17, 108 (Danielson's 2014 electronic ledger reflecting Sept. 22, 2014 payment to Tandem Printing).

for several \$1,000 contributions made to Our Minnetrista as separate contributions of either \$333.33 or \$333.34 to the candidates.⁴⁹

22. On or about August 8, 2014, Danielson completed and filed campaign financial reports for Mortenson, Thoele, and Whalen for the reporting period of July 29, 2014 through August 8, 2014.⁵⁰ Each of the three reports identify the same five donors and indicate that the candidate received a total of either \$1,033.33 or \$1,033.34 in contributions.⁵¹

23. On or about October 24, 2014, Danielson completed and filed campaign financial reports for the three candidates governing the reporting period of August 9, 2014 through October 24, 2014.⁵² The candidate report for Mortenson indicates that she received a total of \$4,808.34 in contributions from 42 individuals.⁵³ Thoele's candidate report for the same period indicates she received a total of \$4,808.35 from the same 42 individuals.⁵⁴ Whalen's report for the same period indicates that she received \$4,807.38 from the same 42 individuals.⁵⁵ All three reports are dated October 24, 2014, and signed by Danielson.⁵⁶

24. On or about December 4, 2014, Danielson completed and filed final campaign financial reports for the reporting period of October 25, 2014 through December 4, 2014, for the three candidates.⁵⁷ All three reports identify the same seven contributing donors and disclose contributions to Mortenson in the amount of \$1,030.41,⁵⁸ to Thoele in the amount of \$1,030.40,⁵⁹ and to Whalen in the amount of \$1,031.40.⁶⁰

25. The final campaign financial reports for Mortenson, Thoele, and Whalen also disclose that each candidate received in-kind contributions in the amount of \$765.77, including an in-kind contribution from Mortenson in the amount of \$200, and an in-kind contribution from Whalen in the amount of \$288.10.⁶¹

26. City clerks are required to post campaign financial reports filed by candidates or committees on the city government's website for at least four years.⁶² The campaign finance reports filed by Danielson on behalf of candidates Mortenson, Thoele and Whalen were available on the city of Minnetrista's website after they were filed.⁶³

⁴⁹ See Exs. 43, 108 (Danielson's 2014 electronic ledger reflecting contribution from C. Hales).

⁵⁰ Exs. 3, 6, 9.

⁵¹ Exs. 3, 6, 9.

⁵² Exs. 4, 7, 10.

⁵³ Ex. 4.

⁵⁴ Ex. 7.

⁵⁵ Ex. 10.

⁵⁶ Exs. 4, 7, 10.

⁵⁷ Exs. 5, 8, 11.

⁵⁸ Ex. 5.

⁵⁹ Ex. 8.

⁶⁰ Ex. 11.

⁶¹ Exs. 5, 8, 11.

⁶² Minn. Stat. § 211A.02, subd. 6.

⁶³ Test. of S. Bruce.

27. Whalen won election to the office of mayor of Minnetrista in 2014 by less than 200 votes.⁶⁴ Mortenson and Thoele were elected to city council seats.⁶⁵

28. Following the November 2014 general election, Danielson closed the three Our Minnetrista checking accounts that she had opened for candidates Mortenson, Thoele and Whalen.⁶⁶

29. Our Minnetrista did not file any campaign financial reports in its own name disclosing contributions it received or expenditures it made in 2014.

30. Because Our Minnetrista failed to file financial reports disclosing contributions it received and expenditures it made, and due to the manner in which Danielson reported the contributions and expenditures on the candidate's reports, Our Minnetrista's role in the candidates' campaigns was concealed from the public. Its activities could not have been discovered within one year of the 2014 election. Complainant did not discover Our Minnetrista's role until after the 2018 elections.

III. The 2016 Minnetrista Elections

31. In August of 2016, Respondent Kolb sent an email to several candidates for Minnetrista city offices, including Complainant.⁶⁷ Kolb described Our Minnetrista as "a group of residents who formed two years ago to help bring improvements to the Minnetrista City Government."⁶⁸ Kolb requested that the candidates meet with Our Minnetrista so that its members could learn about the candidates and "potentially offer our collective advice and assistance with your campaigns."⁶⁹

32. Complainant met with Kolb and at least two other members of Our Minnetrista prior to the 2016 general election.⁷⁰

33. Ultimately, Our Minnetrista did not endorse or support any candidates in the 2016 Minnetrista elections.⁷¹

34. Complainant was elected to the Minnetrista City Council in 2016.⁷²

⁶⁴ Ex. 54.

⁶⁵ *Id.*; Test. of P. Mortenson.

⁶⁶ Test. of K. Danielson.

⁶⁷ Ex. 24.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Test. of S. Bruce.

⁷¹ *Id.*; Ex. 48.

⁷² Test. of S. Bruce.

IV. The 2018 Minnetrista Elections

35. In January of 2018, members of Our Minnetrista invited Respondent Tschumperlin to meet with them.⁷³ Tschumperlin had served on Minnetrista's planning committee, but he had never run for elected office prior to 2018.⁷⁴

36. At the meeting, members of Our Minnetrista asked Tschumperlin to explain his position on a variety of issues.⁷⁵ Ultimately, Our Minnetrista members encouraged Tschumperlin to run for city council and offered their assistance with his campaign.⁷⁶

37. Our Minnetrista also supported Respondent Mortenson in a bid for re-election to City Council in 2018.⁷⁷

38. Danielson again agreed to serve as the treasurer for the candidates' campaigns. Danielson contacted Wells Fargo to establish campaign checking accounts for Mortenson and Tschumperlin under Our Minnetrista's name.⁷⁸ Danielson was advised by a bank employee that she needed to register the name "Our Minnetrista" as an assumed name with the Minnesota Secretary of State's Office in order to open the checking accounts.⁷⁹

39. On or about March 27, 2018, Danielson registered "Our Minnetrista" as an assumed name and paid a \$50 filing fee to the Minnesota Secretary of State's office.⁸⁰

40. Danielson then opened checking accounts in Our Minnetrista's name for Mortenson and Tschumperlin at Wells Fargo.⁸¹ The account designated for Mortenson was named "Our Minnetrista Pam."⁸² The account designated for Tschumperlin was called "Our Minnetrista John."⁸³

41. Mortenson and Tschumperlin considered Our Minnetrista to be their campaign committee and Danielson to be their campaign treasurer.⁸⁴ The candidates had no other campaign committees.⁸⁵

⁷³ Test. of J. Tschumperlin.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Test. of P. Mortenson; Ex. 20.

⁷⁸ Test. of K. Danielson.

⁷⁹ *Id.*

⁸⁰ *Id.*; Exs. 44, 45.

⁸¹ Test. of K. Danielson, Exs. 106, 107.

⁸² Ex. 106; Ex. 63, Attachment A.

⁸³ Ex. 107; Ex. 63, Attachment B.

⁸⁴ Test. of P. Mortenson; Test. of J. Tschumperlin.

⁸⁵ Test. of P. Mortenson; Test. of J. Tschumperlin.

42. Our Minnetrista disseminated campaign flyers in support of Mortenson and Tschumperlin. Some flyers included a disclaimer stating, “prepared and paid for by Our Minnetrista,”⁸⁶ and others included the statement: “Endorsed by Our Minnetrista.”⁸⁷

43. As it had in 2014, Our Minnetrista solicited campaign contributions on behalf of its selected candidates. In June of 2018, Our Minnetrista distributed a letter to residents advising them of Mortenson’s and Tschumperlin’s candidacies for seats on the Minnetrista City Council.⁸⁸ The letter requested that donations be made to Our Minnetrista to cover costs related to printing campaign material.⁸⁹ The letter included a donation form for residents to complete and return with their donation.⁹⁰ The form indicated that, unless otherwise specified, all donations would be split equally between Mortenson and Tschumperlin.⁹¹

44. On July 18, 2018, Deani Montang wrote a check to Our Minnetrista in the amount of \$150.⁹² Ms. Montang intended that her \$150 contribution be divided evenly between Mortenson and Tschumperlin.⁹³

45. Our Minnetrista also promoted Mortenson’s and Tschumperlin’s candidacies on its website and included a link for persons to donate to their campaigns online via PayPal.⁹⁴

46. Upon receiving contributions, Danielson initially deposited the funds into the account designated for Mortenson, and then transferred an equal share of the contribution into the account designated for Tschumperlin.⁹⁵ In some cases, when expenditures were paid out at or near the same time contributions were being deposited, Danielson paid expenditures for Tschumperlin’s campaign from the Mortenson account rather than transfer the funds between accounts.⁹⁶

47. Danielson maintained an electronic spreadsheet of all contributions received and expenditures made on behalf of Mortenson and Tschumperlin.⁹⁷

48. Danielson completed the campaign financial reports for Mortenson and Tschumperlin.⁹⁸ Danielson marked the reports as “candidate” reports as opposed to “campaign committee” reports.⁹⁹ Once completed, she sent the reports to the candidates

⁸⁶ Ex. 19.

⁸⁷ Ex. 20.

⁸⁸ Ex. 109.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Test. of D. Montang; Exs. 102, 104.

⁹³ Test. of D. Montang; Exs. 102, 104.

⁹⁴ Test. of S. Bruce; Exs. 26, 27, 28.

⁹⁵ Test. of K. Danielson; Test. of J. Tschumperlin.

⁹⁶ Ex. 63 at ¶ 7.

⁹⁷ Test. of K. Danielson; Ex. 105.

⁹⁸ Test. of K. Danielson.

⁹⁹ See Exs. 12-15.

to review and approve.¹⁰⁰ Upon approval, Danielson filed the reports with the Minnetrista city clerk.¹⁰¹

49. Our Minnetrista allocated contributions it received and expenditures it paid on behalf of Mortenson and Tschumperlin equally between the two candidates' campaign financial reports. Danielson reported all contributions as having come from the individuals who donated to Our Minnetrista, and the expenditures as being paid by the candidates, rather than Our Minnetrista.¹⁰²

50. Mortenson and Tschumperlin were aware that the individual donors identified on their 2018 campaign financial reports actually made their contributions to Our Minnetrista with the understanding that Our Minnetrista would apportion the contributions equally between them.¹⁰³ Mortenson and Tschumperlin were also aware that they had not made the expenditures listed on their 2018 financial reports, but that these payments were actually made by Our Minnetrista.¹⁰⁴

51. In candidate campaign financial reports for the reporting period of July 19, 2018 through August 1, 2018, both Mortenson and Tschumperlin reported receiving \$1,362.50 in contributions from the same 19 individuals.¹⁰⁵ The reports are dated August 1, 2018 and signed by Danielson.¹⁰⁶

52. In candidate campaign financial reports for the reporting period of August 2, 2018 through October 26, 2018, Mortenson and Tschumperlin reported receiving contributions of \$2,719.01 and \$2,719.02, respectively, from the same 28 individuals.¹⁰⁷ The contributions included in-kind donations from Tschumperlin, Kolb, and Mortenson totaling of \$419.02.¹⁰⁸ Danielson signed the reports, which were dated October 26, 2018.¹⁰⁹

53. In final campaign financial reports, for the reporting period October 26, 2018 through December 6, 2018, Mortenson and Tschumperlin reported receiving contributions of \$50.23 and \$50.22, respectively.¹¹⁰ The reports are dated December 6, 2018, and were signed by Danielson.¹¹¹

54. In 2018, Complainant noticed campaign fliers and signs disseminated throughout the city by Our Minnetrista in support of Mortenson and Tschumperlin.¹¹² She

¹⁰⁰ Test. of J. Tschumperlin.

¹⁰¹ Test. of K. Danielson.

¹⁰² See Exs. 12-15, 105.

¹⁰³ Test. of P. Mortenson; Test. of J. Tschumperlin; Test. of K. Danielson.

¹⁰⁴ Test. of P. Mortenson; Test. of J. Tschumperlin; Test. of K. Danielson.

¹⁰⁵ Exs. 12, 14 at 3-4.

¹⁰⁶ Exs. 12, 14 at 3-4.

¹⁰⁷ Exs. 13, 14 at 5-8.

¹⁰⁸ Exs. 13, 14 at 5-8.

¹⁰⁹ Exs. 13, 14 at 5-8.

¹¹⁰ Exs. 14, 15.

¹¹¹ Exs. 14, 15.

¹¹² Test. of S. Bruce.

visited the city of Minnetrista's website to determine if Our Minnetrista had filed any campaign financial reports disclosing its activities.¹¹³ While she found candidate reports for Mortenson and Tschumperlin, she found no reports filed for Our Minnetrista.¹¹⁴

55. Complainant reviewed the campaign financial reports filed for Mortenson and Tschumperlin and noticed that both candidates reported identical contributions from the same individual donors and the same expenditures.¹¹⁵ Complainant also noticed that some contribution amounts were unusual, such as \$37.50 from the same individual donor.¹¹⁶

56. Our Minnetrista did not file any campaign financial reports in its own name disclosing contributions it received or expenditures it made in 2018.¹¹⁷

IV. Procedural History

57. In November and December 2018, Complainant filed three complaints with the Office of Administrative Hearings alleging violations of Minnesota's campaign reporting and disclosure requirements relating to the 2014 and 2018 municipal elections in Minnetrista.¹¹⁸

58. Following determinations that all three complaints stated prima facie violations of campaign practice and finance regulations, the Chief Administrative Law Judge consolidated the complaints into OAH Docket 71-0325-35774.¹¹⁹

59. Respondents moved for summary disposition on February 8, 2019. By Order dated March 29, 2019, the Presiding Administrative Law Judge granted in part and denied in part Respondents' motion for summary disposition.¹²⁰

60. The assigned Panel held an evidentiary hearing at the Office of Administrative Hearings on May 7 and 8, 2019.¹²¹ The record closed on June 7, 2019, with the receipt of final submissions from the parties.

Based upon the foregoing Findings of Fact, the Panel makes the following:

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.* Compare Ex. 13 with 14 at 5-6.

¹¹⁶ Test. of S. Bruce. See Exs. 12, 14 at 3-4.

¹¹⁷ Test. of K. Danielson.

¹¹⁸ *Bruce v. Our Minnetrista*, Complaint, No. 71-0325-35774 (Nov. 28, 2018); *Bruce v. Mortenson and Tschumperlin*, Complaint, No. 60-0325-35844 (Dec. 27, 2018); and *Bruce v. Mortenson, Thoele, and Whalen*, Complaint, No. 60-0325-35845 (Dec. 27, 2018).

¹¹⁹ See Consolidation Order (Jan. 17, 2019).

¹²⁰ Order on Respondents' Motion for Summary Disposition (Mar. 29, 2019).

¹²¹ See Notice of Assignment of Panel (Apr. 11, 2019).

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction to consider this matter pursuant to Minn. Stat. § 211B.35 (2018).

2. Complainant must prove her allegations by a preponderance of the evidence.¹²²

3. Under Minn. Stat. § 211B.32, subd. 1, 2 (2018), a complaint alleging a violation of chapter 211A or 211B must be filed with the Office of Administrative Hearings “within one year after the occurrence of the act or failure to act that is the subject of the complaint.” An exception to the one-year filing requirement exists:

if the act or failure to act involves fraud, concealment, or misrepresentation that could not be discovered during that one-year period, the complaint may be filed with the office within one year after the fraud, concealment, or misrepresentation was discovered.¹²³

4. Under Minn. Stat. § 211A.02, subd. 1, candidates or committees who receive contributions or make disbursements of over \$750 in a calendar year must file financial reports with the appropriate filing officer. A candidate or committee shall submit an initial report to the filing officer within 14 days after the candidate or committee receives or makes disbursement of more than \$750 and shall continue to make the reports listed in Minn. Stat. § 211A.02, subd. 1(b) until a final report is filed.¹²⁴

5. A “contribution” is “anything of monetary value that is given or loaned to a candidate or committee for a political purpose.”¹²⁵ An “in-kind” contribution refers to anything of value that is given, other than money.¹²⁶

6. A “disbursement” is defined as “money, property, office, position, or any other thing of value that passes or is directly or indirectly conveyed, given, promised, paid, expended, pledged, contributed, or lent.”¹²⁷

7. A “committee” is defined, in part, to mean “a corporation or association or persons acting together to influence the nomination, election, or defeat of a candidate.”¹²⁸

8. Our Minnetrista was an association of persons acting together to influence the election of candidates in the 2014 and 2018 Minnetrista city elections. Our Minnetrista was a “committee” for purposes of Minn. Stat. § 211A.01, subd. 4.

¹²² Minn. Stat. § 211B.32, subd. 4 (2018).

¹²³ *Id.*

¹²⁴ Minn. Stat. § 211A.02, subd. 1(a).

¹²⁵ Minn. Stat. § 211A.01, subd. 5 (2018).

¹²⁶ *See generally* Minn. Stat. § 10A.01, subd. 13 (2018).

¹²⁷ Minn. Stat. § 211A.01, subd. 6.

¹²⁸ Minn. Stat. § 211A.01, subd. 4.

9. Our Minnetrista received campaign contributions and made campaign disbursements of more than \$750 in 2018. Our Minnetrista was required to file campaign financial reports with the Minnetrista city clerk in 2018.¹²⁹

10. Complainant established by a preponderance of the evidence that Respondent Our Minnetrista violated Minn. Stat. § 211A.02, subd. 1, by failing to file campaign financial reports after receiving contributions or making disbursements of more than \$750 in 2018.

11. Our Minnetrista's role in the 2014 campaigns of Mortenson, Thoele, and Whalen was concealed by Our Minnetrista's failure to file campaign financial reports and the failure of Our Minnetrista and the candidates to identify contributions made by, and expenditures paid by, Our Minnetrista on the candidates' campaign reports.

12. Such concealment could not have been discovered within one year of the 2014 elections. Complainant did not discover the facts related to the 2014 elections until after the 2018 elections occurred. Complainant timely filed her complaints within one year after the concealment was discovered.¹³⁰

13. Based on its violations of Minn. Stat. § 211A.02, it is appropriate to assess a civil penalty against Our Minnetrista in the amount of \$2,000.

14. Minn. Stat. § 211A.06 provides, in part, that a treasurer or other individual who receives money for a committee is guilty of a misdemeanor if the individual fails to keep correct account and does so "with the intent to conceal receipts or disbursements."¹³¹

15. Complainant failed to establish by a preponderance of the evidence that Respondents Mortenson, Thoele, Whalen, or Tschumperlin failed to keep accurate accounts of their campaign finances with the intent to conceal receipts or disbursements in violation Minn. Stat. § 211A.06.

16. Minn. Stat. § 211A.12 prohibits local candidates in voting districts with fewer than 100,000 residents from accepting more than \$600 in contributions from any individual or committee. The statute reads in relevant part:

A candidate or a candidate's committee may not accept aggregate contributions made or delivered by an individual or committee in excess of \$600 in an election year for the office sought and \$250 in other years; except that a candidate or a candidate's committee for an office whose territory has a population over 100,000 may not accept aggregate contributions made or delivered by an individual or committee in excess of \$1,000 in an election year for the office sought and \$250 in other years.¹³²

¹²⁹ Minn. Stat. § 211A.02, subd. 1(a).

¹³⁰ *Id.*

¹³¹ Minn. Stat. § 211A.06 (1), (4).

¹³² Minn. Stat. § 211A.12.

17. Complainant established that Respondents Mortenson, Thoele, and Whalen violated Minn. Stat. § 211A.12 by accepting contributions in excess of \$600 from Our Minnetrista in 2014.

18. Complainant established that Respondents Mortenson and Tschumperlin violated Minn. Stat. § 211A.12 by accepting contributions in excess of \$600 from Our Minnetrista in 2018.

19. Based on their violations of Minn. Stat. § 211A.12, it is appropriate to require Respondent Mortenson to pay a civil penalty of \$1,200, and for Respondents Thoele, Whalen, and Tschumperlin each to pay a civil penalty in the amount of \$600.

Based upon the record, and for the reasons stated in the following Memorandum, which is incorporated herein, the Panel makes the following:

ORDER

1. By 4:30 p.m. on August 1, 2019, Respondent Our Minnetrista shall pay a civil penalty of \$2,000 for violating Minn. Stat. § 211A.02.

2. By 4:30 p.m. on August 1, 2019, Respondent Mortenson shall pay a civil penalty of \$1,200 for violating Minn. Stat. § 211A.12.

3. By 4:30 p.m. on August 1, 2019, Respondents Thoele, Whalen, and Tschumperlin shall each pay a civil penalty of \$600 for violating Minn. Stat. § 211A.12.

4. Penalties shall be paid by a check made to the order of "Treasurer, State of Minnesota," and remitted to the Office of Administrative Hearings. The docket number, 71-0325-35774, shall be included on the check.

5. By August 1, 2019, Respondent Our Minnetrista shall file a campaign financial report regarding its 2018 campaign activities with the City of Minnetrista filing officer and submit a copy of the report to the Office of Administrative Hearings.

6. By August 1, 2019, Respondents Mortenson and Tschumperlin shall file corrected 2018 campaign financial reports with the City of Minnetrista filing officer and submit copies of the reports to the Office of Administrative Hearings.


7. By August 1, 2019, Respondents Mortenson, Thoele, and Whalen shall file corrected 2014 campaign financial reports with the City of Minnetrista filing officer and submit copies of the reports to the Office of Administrative Hearings.

8. Complainant's alleged violations of Minn. Stat. 211A.06 are **DISMISSED**.

Dated: June 21, 2019


JESSICA A. PALMER-DENIG
Presiding Administrative Law Judge


JAMES E. LAFAVE
Administrative Law Judge


JIM MORTENSON
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 211B.36, subd. 5 (2018), this is the final decision in this case. Under Minn. Stat. § 211B.36, subd. 5, a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63-.69 (2018).

MEMORANDUM

I. Our Minnetrista's Campaign Financial Reporting Violations

Minnesota law provides that committees receiving contributions or making disbursements of over \$750 in a calendar year are required to file campaign financial reports under Minn. Stat. § 211A.02.¹³³ For purposes of campaign financial reporting, a "committee" is defined, in relevant part, as "a corporation or association or persons acting together to influence the nomination, election, or defeat of a candidate."¹³⁴

Respondents have expressly admitted that Our Minnetrista is "a group of engaged residents who joined together to promote the election of local officials."¹³⁵ Our Minnetrista was a "committee" for campaign finance reporting purposes. Our Minnetrista also received contributions and made disbursements in excess of \$750 in 2018.¹³⁶ Our Minnetrista concedes it opened bank accounts in its own name, accepted checks made payable to "Our Minnetrista," deposited the funds into one account, transferred funds into

¹³³ Minn. Stat. § 211A.02, subd. 1.

¹³⁴ Minn. Stat. § 211A.01, subd. 4.

¹³⁵ Resp'ts' Mem. in Support of Summ. Disposition at 2; Ex. 63 at ¶ 2.

¹³⁶ Ex. 63 at ¶¶ 4-11, Attachments A - D.

other accounts, paid expenditures for the candidates, and in some instances, it paid expenses for one candidate from another candidate's account.¹³⁷

Our Minnetrista claims that individual contributors intended to donate funds in equal amounts to the candidates themselves. Therefore, Our Minnetrista contends it did not actually receive funds or make expenditures. The facts here are in direct opposition to that claim. Donors wrote checks payable to Our Minnetrista; the checks were deposited into accounts opened by and held in the name of Our Minnetrista; and Our Minnetrista used those funds to pay expenses for the candidates' campaigns. Additionally, at least one piece of campaign material contains a disclaimer indicating it was "*prepared and paid for* by 'Our Minnetrista,' P.O. Box 193, Mound, MN 55364."¹³⁸

Respondents insist that Our Minnetrista acted as the campaign committee for the candidates and that all contributions and expenditures were properly accounted for on the candidates' filed campaign financial reports.¹³⁹ Therefore, Respondents maintain that Our Minnetrista was not required to file its own campaign financial reports. The Panel rejects this argument.

Our Minnetrista operated independently of the candidates in this case, and in fact solicited candidates to run for office starting in 2014. The organization continued to operate in the 2016 and 2018 elections. Though it did not promote candidates in the 2016 elections, it supported multiple candidates in 2014 and 2018. Our Minnetrista is a "political committee" in that it is "an association whose major purpose is to influence the nomination or election of one or more candidates . . . , other than a principal campaign committee or a political party unit."¹⁴⁰ It was not a "principal campaign committee" for any candidate. A principal campaign committee is an association designated or formed by a candidate for each office sought.¹⁴¹ A candidate has control over a principal campaign committee, and "may at any time without cause remove and replace the chair, treasurer, deputy treasurer, or any other officer of the candidate's principal campaign committee."¹⁴² A candidate remains a candidate for office until the candidate's principal campaign committee is dissolved under Minn. Stat. § 10A.243.¹⁴³ Therefore, Our Minnetrista was not a campaign committee for any of the candidates it supported.

Other facts also counter Our Minnetrista's argument. First, Our Minnetrista submitted reports as "candidate" reports, rather than "campaign committee" reports. Second, even if the candidate reports disclosed, to the penny, all amounts received and paid out, the reports did not disclose that funds were actually contributed to, and paid out,

¹³⁷ A candidate's campaign committee must have its own bank account and cannot mix its funds with any other money. See Minnesota Campaign Finance and Public Disclosure Board, Legislative and Constitutional Office Candidate Handbook at 8 (Rev. July 2, 2018), available at https://cfb.mn.gov/pdf/publications/handbooks/candidate_handbook.pdf?t=1553552630 (viewed on Mar. 26, 2019).

¹³⁸ See Ex. 19.

¹³⁹ Test. of K. Danielson; Test. of P. Mortenson; Test. of J. Tschumperlin.

¹⁴⁰ Minn. Stat. § 10A.01, subd. 27 (2018).

¹⁴¹ Minn. Stat. §§ 10A.01, subd. 34, .105, subd. 1 (2018).

¹⁴² Minn. Stat. § 10A.105, subd. 2 (2018).

¹⁴³ Minn. Stat. § 10A.01, subd. 10 (2018).

by Our Minnetrista. Third, potential voters received campaign material with a disclaimer indicating it was “prepared and paid for” by Our Minnetrista and Our Minnetrista “endorsed” candidates. Endorsing a candidate is inconsistent with operating as that candidate’s campaign committee.

The United States Supreme Court has long recognized the validity of disclosure and disclaimer requirements.¹⁴⁴ In *Buckley v. Valeo*,¹⁴⁵ the Court held that disclosure requirements serve important government interests in: (1) “provid[ing] the electorate with information as to where political campaign money comes from and how it is spent by the candidate;” (2) avoiding corruption by exposing large contributions and expenditures to the light of publicity; and (3) detecting campaign finance violations.¹⁴⁶ More recently, in *Citizens United v. Fed. Election Comm’n*,¹⁴⁷ the Court affirmed that disclosure and disclaimer requirements are permissible means of informing the electorate “about the sources of election-related spending.”¹⁴⁸

Complainant has established that Our Minnetrista was required to file campaign financial reports in 2018 and that it failed to do so.¹⁴⁹ The Panel concludes Our Minnetrista violated Minn. Stat. § 211A.02.

II. Timeliness of Claims Regarding the 2014 Elections

Under Minn. Stat. § 211B.32, subds. 1, 2, a complaint alleging a violation of chapter 211A or 211B must be filed with the Office of Administrative Hearings “within one year after the occurrence of the act or failure to act that is the subject of the complaint.” The statute provides an exception under limited circumstances:

if the act or failure to act involves fraud, concealment, or misrepresentation that could not be discovered during that one-year period, the complaint may be filed with the office within one year after the fraud, concealment, or misrepresentation was discovered.¹⁵⁰

The Panel determines that Our Minnetrista’s role in the 2014 Mortenson, Thoele, and Whalen campaigns was concealed from the public. Our Minnetrista solicited contributions, received checks payable to it and deposited the contributions in bank accounts under its own name, and made expenditures on the candidates’ behalf.¹⁵¹ Our Minnetrista did not file its own campaign financial reports disclosing its role. It filed financial reports as candidate reports, rather than as campaign committee reports, even

¹⁴⁴ See *Lewison v. Hutchinson*, ___ N.W.2d ___ (Minn. Ct. App. May 3, 2019).

¹⁴⁵ 424 US 1, 66, 96 S.Ct. 612, 657, 46 L.Ed.2d 659 (1976).

¹⁴⁶ *Id.* at 66-68, 96 S. Ct. at 657-58 (quotation omitted).

¹⁴⁷ 558 U.S. 310, 366, 130 S.Ct. 876, 914, 175 L.Ed.2d 753 (2010).

¹⁴⁸ *Id.*

¹⁴⁹ While Our Minnetrista’s activities in 2014 are relevant to determining that it is a political committee and to determining whether Mortenson, Thoele, and Whalen violated the law in 2014, Complainant’s claim that Our Minnetrista violated Minn. Stat. § 211A.02 relates only to the 2018 elections. See *Bruce v. Our Minnetrista*, Complaint, No. 71-0325-35774 (Nov. 28, 2018).

¹⁵⁰ *Id.*

¹⁵¹ Ex. 63 at ¶ 11, Attachment. D.

though Our Minnetrista maintains it was acting as a campaign committee.¹⁵² Our Minnetrista's name never appears on the reports and no funds received or paid out were ever attributed to Our Minnetrista.

The Panel further concludes that these actions could not have been discovered within one year of the 2014 election. Though Complainant was aware that Our Minnetrista existed, she was not aware of its role in the 2014 campaigns until 2018. At that time, she was required to engage in substantial investigative efforts to piece together the facts.¹⁵³ The Panel finds that Complainant timely filed her complaints within one year of the time she discovered Our Minnetrista's and the candidates' actions.

III. Campaign Financial Reporting Violations by the Candidates

A. Minn. Stat. § 211A.06

Complainant alleges that the candidates violated Minn. Stat. § 211A.06 by failing to keep an accurate account of their campaign receipts and disbursements.

Minn. Stat. § 211A.06 provides:

A treasurer or other individual who receives money for a committee is guilty of a misdemeanor if the individual:

- (1) fails to keep a correct account as required by law;
- (2) mutilates, defaces, or destroys an account record;
- (3) in the case of a committee, refuses upon request to provide financial information to a candidate; and
- (4) does any of these things with the intent to conceal receipts or disbursements, the purpose of receipts or disbursements, or the existence or amount of an unpaid debt or the identity of the person to whom it is owed.

Because violations of Minn. Stat. § 211A.06 may result in criminal prosecutions and penalties, the statute must be construed strictly, notwithstanding the civil nature of

¹⁵² Exs. 100, 101, 103.

¹⁵³ Complainants must submit evidence or allege sufficient facts to establish a prima facie violation of the Fair Campaign Practices Act. See, Minn. Stat. § 211B.32, subd. 3 (2018); *Barry v. St. Anthony-New Brighton Indep. Sch. Dist.* 282, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010). Unlike a civil case, a complainant under chapters 211A and 211B may not file a notice pleading and then flesh out his or her allegations through discovery. Concealment of campaign financial activities may impair the ability of a complainant to state a claim under this procedure. For example, the manner in which Our Minnetrista operated allowed it to conceal corporate contributions made by two entities in 2014. These donations were reported on the candidates' reports as having been received from individuals. Corporate contributions to a candidate or committee are prohibited under Minn. Stat. § 211B.15 (2014). Complainant only uncovered these donations when she obtained copies of contribution checks payable to Our Minnetrista in response to a subpoena issued in this case. Complainant did not allege this as a violation and the Panel does not impose any penalty related to these contributions. Nevertheless, this evidence further illustrates the consequences of Our Minnetrista's concealment of its 2014 activities.

the proceedings before the Panel.¹⁵⁴ With that in mind, the Panel notes that this section does not penalize merely inaccurate record-keeping; it penalizes the failure to keep correct accounts of money received for a committee with “the intent to conceal receipts or disbursements,” or the “purpose of receipts or disbursements.” The statute does not identify concealment of the “source” of receipts or “recipient” of disbursements as a criminal offense,¹⁵⁵ and those disclosure requirements are addressed elsewhere in chapter 211A. The focus of this claim, therefore, is on whether the candidates intentionally kept inaccurate accounts in order to conceal the amount or purpose of contributions or disbursements.

Although the candidates’ financial reports inaccurately identify the contributions as coming from individual donors rather than from Our Minnetrista, that inaccuracy is not enough to support finding a violation of Minn. Stat. § 211A.06. Complainant has not shown that Respondents intended to conceal the amount or purpose of the contributions or disbursements made on the behalf of the candidates. Instead, the record supports finding that Respondents disclosed all of the contributions and expenditures, doing so in a manner that apportioned the amounts equally among the candidates. The record reflects that Danielson sought advice from a variety of sources to learn the appropriate way to account for campaign contributions and expenses, and though she ultimately did so incorrectly, her attempt to obtain information weighs against a finding of intentional concealment.

Complainant has shown that Respondents concealed the fact that Our Minnetrista was the ultimate source of the receipts and disbursements, and the Panel finds violations of law by Our Minnetrista and the candidates related to these allegations. The Panel concludes, however, that this reporting error falls short of the intentional concealment of receipts or disbursements required to establish a violation of Minn. Stat. § 211A.06. Therefore, the alleged violations of section 211A.06 are dismissed.

B. Minn. Stat. § 211A.12

Complainant established by a preponderance of the evidence that Mortenson, Thoele, Whalen, and Tschumperlin received contributions from Our Minnetrista in excess of \$600. Therefore, Complaint has proven all four candidates violated Minn. Stat. § 211A.12.

For elections in a community of Minnetrista’s size, “[a] candidate or a candidate’s committee may not accept aggregate contributions made or delivered by an individual or

¹⁵⁴ *In the Matter of the Contest of General Election [Graves v. Meland]*, 264 N.W.2d 401, 403 (Minn. 1978). See also *State v. Stevenson*, 655 N.W.2d 235, 238 (Minn. 2003) (The Rule of Lenity states that “[w]hen the statute in question is a criminal statute, courts should resolve ambiguity concerning the ambit of the statute in favor of lenity.”).

¹⁵⁵ The Panel notes the contrast between the statute’s treatment of receipts and disbursements and its approach to concealment of a debt. With respect to debts, intentional concealment of the “*existence* or *amount* of an unpaid debt or the *identity* of the person to whom it is owed,” all are violations. See Minn. Stat. § 211A.06(4) (emphasis added). The statute does not treat receipts and disbursements in the same manner.

committee in excess of \$600 in an election year”¹⁵⁶ As explained above, Our Minnetrista operated as a political committee for both the 2014 and 2018 elections. In both election years and for multiple candidates, Our Minnetrista established bank accounts in its own name; it solicited checks from donors made payable directly to Our Minnetrista; it deposited the solicited funds into, and transferred money between, its bank accounts; and it paid campaign expenditures directly from those accounts. The candidates did not have control of those accounts or funds. Thus, in 2014 and 2018, Mortenson, Thoele, Whalen, and Tschumperlin received contributions from Our Minnetrista, not from the individual donors. The record shows that the amounts received were far in excess of the \$600 limit established by Minn. Stat. § 211A.12.

IV. Penalty and Filing Requirements

The Office of Administrative Hearings uses a “penalty matrix” to guide decision-making in assessing civil penalties for violations of the Fair Campaign Practices Act. The matrix categorizes violations based upon the willfulness of the misconduct and the impact of the violation upon voters.¹⁵⁷

The Panel concludes that Our Minnetrista was a committee and was required to file campaign financial reports in 2018 within 14 days of having spent \$750, and thereafter as required by section 211A.02. Our Minnetrista’s failure to file campaign financial reports in 2018 was ill-advised, corrupted the political process, and created an unfair advantage for the candidates it supported for two elective offices. A \$2,000 penalty is appropriate.

The Panel concludes that the candidates’ violation of the contribution limits was negligent and difficult to correct or counter. The Panel concludes that a \$600 penalty for Thoele, Whalen and Tschumperlin is appropriate. Because Mortenson violated section 211A.12 both in 2014 and 2018, the Panel concludes a \$1,200 violation is appropriate.

Additionally, Our Minnetrista is required to file campaign financial reports to disclose its role in the 2014 and 2018 Minnetrista city elections. The candidates are also ordered to file amended campaign financial reports disclosing contributions and expenditures made to them or on their behalf by Our Minnetrista.

Minn. Stat. § 211A.08, subd 3 (2018) provides that a county attorney may prosecute any violation of chapter 211A. Under Minn. Stat. § 211B.35, subd. 2(e), the Panel may refer Complainant’s complaints to the appropriate county attorney. Based upon the record here, however, the Panel declines to refer the matter to the county attorney for further consideration.

¹⁵⁶ Minn. Stat. § 211A.12.

¹⁵⁷ See Penalty Matrix (<https://mn.gov/oah/self-help/administrative-law-overview/fair-campaign.jsp>); *Fine v. Bernstein*, 726 N.W.2d 137, 149-50 (Minn. Ct. App. 2017), *review denied* (Minn. 2007).

V. Conclusion

Complainant established by a preponderance of the evidence that Respondent Our Minnetrista violated Minn. Stat. § 211A.02 by failing to report its campaign contributions and expenditures. Complainant also established that Respondents Mortenson, Thoele, Whalen, and Tschumperlin accepted contributions in excess of the \$600 limit in violation of Minn. Stat. § 211A.12.

J. P. D., J. E. L., J. R. M.

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

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF THE COMPLAINT OF MICHAEL SMITH REGARDING THE PERSKE (JOE) FOR SENATE COMMITTEE

Allegations of the complaint

On October 18, 2018, the Campaign Finance and Public Disclosure Board received a complaint submitted by counsel for Michael Smith regarding the Perske (Joe) for Senate committee, and JR Broadcasting, LLC. Perske (Joe) for Senate is the principal campaign committee of Joe Perske, a candidate for the special election in Minnesota Senate District 13. JR Broadcasting, LLC owns AM 950 Radio, which produces a program called “Democrat of the Day”.

The complaint alleged the following violations:

1. the Perske committee used signs that did not include the required campaign disclaimer in violation of Minnesota Statutes section 211B.04, subdivision 1;
2. the Perske committee accepted an in-kind contribution of campaign signs from Joe Perske’s 2014 congressional campaign committee that had a value exceeding the \$1,000 maximum contribution limit for the office of state senate in violation of Minnesota Statutes section 10A.27, subdivision 1;
3. the Perske committee accepted the campaign signs from an unregistered association (the Perske congressional committee) without the disclosure statement required for contributions of over \$200 by Minnesota Statutes section 10A.27, subdivision 13; and
4. the Perske committee accepted a corporate contribution from JR Broadcasting, LLC when Mr. Perske participated in the radio program “Democrat of the Day”. Correspondingly, the complaint alleges that JR Broadcasting made a corporate contribution to the Perske committee through the same radio program. Corporate contributions to the principal campaign committee of a candidate are prohibited by Minnesota Statutes section 211B.15, subdivision 2.

Prima Facie Determination

On October 26, 2018, the Board chair issued a prima facie determination. The determination found that the allegation that the Perske committee accepted a contribution with a value of over \$200 from an unregistered association without the required disclosure statement was mere speculation. The chair reached this conclusion because the required disclosure statement is forwarded to the Board with the committee’s next report of receipts and expenditures filed after the contribution is accepted. The first report of receipts and expenditures for the special election in Senate District 13 was not due until October 30, 2018.

The chair also found that the complaint did not state a prima facie violation of the corporate contribution prohibition in Minnesota Statutes section 211B.15, because that statute also provides an exception which excludes from the prohibition any “publication or broadcasting of news items or editorial comments by the news media.” The complaint contained no allegation that AM 950 is not part of the news media, and the complaint contained no allegation that the radio broadcast segment in question did not consist of news items or editorial comments.

However, the chair further determined that the complaint did state prima facie violations by the Perske committee of the campaign disclaimer and contribution limit statutes. Pursuant to Minnesota Statutes section 10A.022, subdivision 3, when the chair finds that the complaint alleges a prima facie violation, the Board must then hold a probable cause hearing to determine if probable cause exists to believe that the violations alleged in the complaint warrant a formal investigation.

Response from the Perske Committee

The Perske committee provided information relevant to the complaint when it filed the pre-general report of receipts and expenditures on October 30, 2018. The report disclosed an in-kind contribution of \$1,510 dated June 29, 2018, from the candidate, Joe Perske, in the form of “Leftover Perske campaign signs from 2014 CD 6 election contest.” The report also discloses an in-kind campaign expenditure for use of the signs valued at the same amount.

By letter dated November 21, 2018, David Zoll, legal counsel for the Perske committee, responded to the complaint. The letter states that Mr. Perske took personal possession of the campaign signs when the congressional committee terminated after the 2014 election. Therefore, the signs were an in-kind contribution to the Perske committee, but the signs were a donation from the candidate, not by the congressional committee.

In regards to the lack of a disclaimer on some of the campaign signs, Mr. Zoll states that the Perske committee only cut the disclaimer off of the reused signs that were carried in parades and that there was no risk of confusion to voters as to who was responsible for those signs.

Mr. Zoll acknowledges that the Perske committee did initially distribute other reused campaign signs with an incorrect disclaimer. Mr. Zoll states, “[t]he Perske Committee printed stickers with the proper disclaimer immediately after becoming aware of the need to include the disclaimer on the signs and attempted to correct the signs immediately.” With his response, Mr. Zoll provided a picture of the sticker containing the correct disclaimer that was used to correct the campaign signs.

By email on November 27, 2018, Mr. Zoll responded to a Board request for additional information on the campaign signs. Mr. Zoll states that Mr. Perske donated approximately 445 signs to the committee, and that most of these signs were initially distributed without the correct disclaimer. The Perske committee ordered the stickers to update the signs when it learned of the complaint, and committee volunteers started to affix the corrective stickers on October 26, 2018. The Perske committee estimates that the corrective sticker had been applied to substantially all of the signs by November 2, 2018. In response to a Board question regarding the cost of correcting the signs, Mr. Zoll states that the stickers to update the disclaimer cost \$387.53. Before the reused signs were distributed the committee bought other stickers

that were used to change the office referenced on the signs from “Congress” to “MN Senate”. The cost of the “MN Senate” stickers was \$1,705.73.

Probable Cause Hearing

The probable cause hearing was held in executive session at the December 5, 2018, Board meeting. Benjamin Pachito appeared before the Board on behalf of the complainant; David Zoll appeared before the Board on behalf of the Perske committee.

In considering the allegation that the Perske committee accepted the contribution of campaign signs from an unregistered association the Board determined that Mr. Perske’s 2014 congressional campaign committee, named Joe Perske for US Congress, filed a termination report with the Federal Election Commission (FEC) on November 27, 2014. The requested termination was granted by the FEC by letter dated December 3, 2014. Therefore, the signs could not have been contributed by the congressional committee because it had been terminated for 3½ years prior to the date of the contribution. Mr. Perske took possession of the campaign signs when the congressional committee shut down, and later made the decision to donate them to his senate committee. The Perske senate committee properly disclosed the in-kind contribution of the signs as a contribution from the candidate.

Because the signs were donated by the candidate, the \$1,000 contribution limit for unregistered associations does not apply. Mr. Perske signed the public subsidy agreement for the senate special election. Minnesota Statutes section 10A.27, subdivision 10, permits a senate committee to accept up to \$5,000 in contributions from the committee’s own candidate when the candidate has signed a public subsidy agreement. While the pre-general report of receipts and expenditures filed by the Perske committee acknowledges that the value of the signs exceeded \$1,000, there is no basis to believe that the value of the signs exceeded \$5,000 based on the number of signs donated to the committee, and the cost to the committee to modify the signs before they were used in the senate campaign.

Mr. Zoll, in his written response and his appearance before the Board, acknowledged that the Perske committee violated the disclaimer requirement by preparing and disseminating campaign signs that lacked the correct committee name and address as well as signs that did not contain any disclaimer.

On December 5, 2018, the Board made the determination that there was not probable cause to believe that the Perske committee accepted a contribution of over \$1,000 from an unregistered association and dismissed the allegation. The Board also found that there was probable cause to believe that the Perske committee violated the disclaimer requirement in Minnesota Statutes section 211B.04, subdivision 1. An investigation was ordered for the purpose of preparing these findings, conclusions, and order to resolve the matter.

Analysis of Violation

Minnesota Statutes section 211B.04 requires a candidate’s campaign committee to include a disclaimer on any campaign material that it causes to be prepared or disseminated. The disclaimer must identify the committee as the entity responsible for preparing and paying for the campaign material, and must provide either a physical address where the committee may be contacted, or a website address that in turn contains the physical address where the committee may be contacted. The Board may impose a

civil penalty of up to \$3,000 for a violation of the disclaimer requirement pursuant to Minnesota Statutes section 10A.34, subdivision 4.

In this case, the Perske committee acknowledges that it violated Minnesota Statutes section 211B.04, subdivision 1, when it used campaign signs originally prepared for Mr. Perske's congressional campaign. The committee also states, and has documented, that it printed stickers containing the correct disclaimer and mobilized volunteers to correct the signs as soon as it became aware of the problem.

In determining an appropriate civil penalty for the violation, the Board found no reason to believe that the Perske committee reused the campaign signs without a correct disclaimer to either intentionally confuse voters, or deny responsibility for the signs. Indeed the Perske committee did go to the time and expense of modifying the signs for the office of senate. However, the requirement to have a disclaimer on campaign material is not new, and this was not the first political campaign for Mr. Perske. Further, the reused signs were used without the required disclaimer for the majority of the campaign before they were corrected in October and early November. The Board also notes that new campaign signs ordered by the Perske committee contained the correct disclaimer, which shows that members of the Perske committee were aware of the disclaimer requirement.

Findings of fact:

1. The Perske (Joe) for Senate committee used approximately 445 campaign signs that had either no disclaimer, or which contained a disclaimer that was not accurate for the committee.
2. The Perske (Joe) for Senate committee reported that the signs were donated to the committee on June 29, 2018, and that the in-kind value of the signs was \$1,510. The committee was responsible for, and had use of the signs, from that date onward.
3. During the period from October 26, 2018 to November 2, 2018, the Perske (Joe) for Senate committee corrected substantially all of the signs it had previously disseminated that lacked a proper disclaimer.

Based on the foregoing findings of fact, the Board makes the following:

Conclusions of law

1. The Perske (Joe) for Senate committee violated Minnesota Statutes section 211B.04, subdivision 1, when the committee used campaign signs that did not contain the required disclaimer.

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

Order

1. A civil penalty of \$500 is imposed against the Perske (Joe) for Senate committee for violation of the disclaimer provision in Minnesota Statutes section 211B.04, subdivision 1.

2. The Perske (Joe) for Senate committee is directed to forward payment to the Board, by check or money order payable to the State of Minnesota, within 30 days of the date of this order.
3. If the Perske (Joe) for Senate 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.
4. 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/ Margaret Leppik

Margaret Leppik, Chair
Campaign Finance and Public Disclosure Board

Date: January 3, 2019

STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

IN THE MATTER OF THE COMPLAINT OF MICHAEL SMITH REGARDING THE PERSKE (JOE) FOR SENATE COMMITTEE

On October 18, 2018, the Campaign Finance and Public Disclosure Board received a complaint submitted by counsel for Michael Smith regarding the Perske (Joe) for Senate committee, and JR Broadcasting, LLC. Perske (Joe) for Senate is the principal campaign committee of Joe Perske, a candidate for the special election in Minnesota Senate District 13. JR Broadcasting, LLC owns AM 950 Radio, which produces a program called "Democrat of the Day".

A probable cause hearing was held in executive session at the December 5, 2018, Board meeting. Benjamin Pachito appeared before the Board on behalf of the complainant and David Zoll appeared before the Board on behalf of the Perske committee.

STATEMENT OF THE ISSUES

1. Did the Perske (Joe) for Senate committee use signs that did not include the required campaign disclaimer in violation of Minnesota Statutes section 211B.04, subdivision 1?

2. Did the Perske committee accept an in-kind contribution of campaign signs from Joe Perske's 2014 congressional campaign committee that had a value exceeding the \$1,000 maximum contribution limit for the office of state senate in violation of Minnesota Statutes section 10A.27, subdivision 1?

3. Did the Perske committee accept the campaign signs from an unregistered association (the Perske congressional committee) without the disclosure statement required for contributions of over \$200 by Minnesota Statutes section 10A.27, subdivision 13?

4. Did the Perske committee accept a corporate contribution from JR Broadcasting, LLC when Mr. Perske participated in the radio program “Democrat of the Day,” in violation of Minnesota Statutes section 211B.15, subdivision 2?

SUMMARY OF CONCLUSIONS

The Perske (Joe) for Senate committee used signs without the required disclaimer in violation of Minnesota Statutes section 211B.04. The signs were contributed by Joe Perske, not his former congressional committee, so there was no violation of the \$1,000 individual contribution limit applicable to contributions from unregistered associations. When made, the allegation that the Perske committee received, and failed to provide the disclosure statement required upon accepting, a contribution in excess of \$200 from an unregistered association was mere speculation. A subsequent report of receipts and expenditures filed by the Perske committee reflects that the contribution was made by an individual, so no disclosure statement was required by Minnesota Statutes section 10A.27, subdivision 13. There is no evidence in the record indicating that a corporate contribution was received by the Perske committee in violation of Minnesota Statutes section 211B.15, subdivision 2, because subdivision 5 of that statute excludes from the prohibition the “publication or broadcasting of news items or editorial comments by the news media.”

FINDINGS OF FACT

1. The Perske (Joe) for Senate committee used approximately 445 campaign signs that had either no disclaimer, or which contained a disclaimer that was not accurate for the committee.

2. The Perske (Joe) for Senate committee reported that the signs were donated to the committee on June 29, 2018, and that the in-kind value of the signs was \$1,510. The committee was responsible for, and had use of the signs, from that date onward.

3. During the period from October 26, 2018 to November 2, 2018, the Perske (Joe) for Senate committee corrected substantially all of the signs it had previously disseminated that lacked a proper disclaimer.

4. The signs were contributed to the Perske committee by Joe Perske, not his former congressional committee.

5. There is no evidence in the record indicating that AM 950 is not part of the news media or that the radio broadcast segment in question did not consist of news items or editorial comments.

CONCLUSIONS OF LAW

1. The Perske (Joe) for Senate committee violated Minnesota Statutes section 211B.04, subdivision 1, when the committee used campaign signs that did not contain the required disclaimer.
2. The Perske committee did not violate Minnesota Statutes section 10A.27, subdivision 1, as alleged in the complaint.
3. The Perske committee did not violate Minnesota Statutes section 10A.27, subdivision 13, as alleged in the complaint.
4. The Perske committee did not violate Minnesota Statutes section 211B.15, subdivision 2, as alleged in the complaint.

ORDER

1. A civil penalty of \$500 is imposed against the Perske (Joe) for Senate committee for violation of the disclaimer provision in Minnesota Statutes section 211B.04, subdivision 1.
2. The Perske committee is directed to forward payment to the Board, by check or money order payable to the State of Minnesota, within 30 days of the date of this order.
3. If the Perske 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.
4. 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.

Dated: January 3, 2019

/s/ Margaret Leppik
Margaret Leppik, Chair
Campaign Finance and Public Disclosure Board

MEMORANDUM

Minnesota Statutes section 211B.04 generally requires the inclusion of a disclaimer on campaign material, including campaign signs. Minnesota Statutes section 10A.27, subdivision 1, generally limits contributions to a candidate for state senator to \$1,000 per election segment per contributor, but that limit does not apply when the candidate gives a contribution to his or her own committee. If the contributor is the candidate and the candidate has signed a public subsidy agreement covering the election segment in question, the candidate may contribute up to \$5,000 pursuant to Minnesota Statutes section 10A.27, subdivision 10. Minnesota Statutes section 10A.27, subdivision 13, requires that a disclosure statement be provided to the Board when disclosing a contribution in excess of \$200 from an association not registered with the Board. Minnesota Statutes section 211B.15, subdivision 2, prohibits corporate contributions to candidates.

The complaint alleged the following violations:

1. the Perske committee used signs that did not include the required campaign disclaimer in violation of Minnesota Statutes section 211B.04, subdivision 1;
2. the Perske committee accepted an in-kind contribution of campaign signs from Joe Perske's 2014 congressional campaign committee that had a value exceeding the \$1,000 maximum contribution limit for the office of state senate in violation of Minnesota Statutes section 10A.27, subdivision 1;
3. the Perske committee accepted the campaign signs from an unregistered association (the Perske congressional committee) without the disclosure statement required for contributions of over \$200 by Minnesota Statutes section 10A.27, subdivision 13; and
4. the Perske committee accepted a corporate contribution from JR Broadcasting, LLC when Mr. Perske participated in the radio program "Democrat of the Day". Correspondingly, the complaint alleges that JR Broadcasting made a corporate contribution to the Perske committee through the same radio program. Corporate contributions to the principal campaign committee of a candidate are prohibited by Minnesota Statutes section 211B.15, subdivision 2.

Prima Facie Determination

On October 26, 2018, the Board chair issued a prima facie determination. The determination found that the allegation that the Perske committee accepted a contribution with a value of over \$200 from an unregistered association without the required disclosure statement was mere speculation. The chair reached this conclusion

because the required disclosure statement is forwarded to the Board with the committee's next report of receipts and expenditures filed after the contribution is accepted. The first report of receipts and expenditures for the special election in Senate District 13 was not due until October 30, 2018.

The chair also found that the complaint did not state a prima facie violation of the corporate contribution prohibition in Minnesota Statutes section 211B.15, because that statute also provides an exception which excludes from the prohibition any "publication or broadcasting of news items or editorial comments by the news media." The complaint contained no allegation that AM 950 is not part of the news media, and the complaint contained no allegation that the radio broadcast segment in question did not consist of news items or editorial comments.

However, the chair further determined that the complaint did state prima facie violations by the Perske committee of the campaign disclaimer and contribution limit statutes. Pursuant to Minnesota Statutes section 10A.022, subdivision 3, when the chair finds that the complaint alleges a prima facie violation, the Board must then hold a probable cause hearing to determine if probable cause exists to believe that the violations alleged in the complaint warrant a formal investigation.

Response from the Perske Committee

The Perske committee provided information relevant to the complaint when it filed the pre-general report of receipts and expenditures on October 30, 2018. The report disclosed an in-kind contribution of \$1,510 dated June 29, 2018, from the candidate, Joe Perske, in the form of "Leftover Perske campaign signs from 2014 CD 6 election contest." The report also discloses an in-kind campaign expenditure for use of the signs valued at the same amount.

By letter dated November 21, 2018, David Zoll, legal counsel for the Perske committee, responded to the complaint. The letter states that Mr. Perske took personal possession of the campaign signs when the congressional committee terminated after the 2014 election. Therefore, the signs were an in-kind contribution to the Perske committee, but the signs were a donation from the candidate, not by the congressional committee.

In regards to the lack of a disclaimer on some of the campaign signs, Mr. Zoll states that the Perske committee only cut the disclaimer off of the reused signs that were carried in parades and that there was no risk of confusion to voters as to who was responsible for those signs.

Mr. Zoll acknowledges that the Perske committee did initially distribute other reused campaign signs with an incorrect disclaimer. Mr. Zoll states, "[t]he Perske

Committee printed stickers with the proper disclaimer immediately after becoming aware of the need to include the disclaimer on the signs and attempted to correct the signs immediately.” With his response, Mr. Zoll provided a picture of the sticker containing the correct disclaimer that was used to correct the campaign signs.

By email on November 27, 2018, Mr. Zoll responded to a Board request for additional information on the campaign signs. Mr. Zoll states that Mr. Perske donated approximately 445 signs to the committee, and that most of these signs were initially distributed without the correct disclaimer. The Perske committee ordered the stickers to update the signs when it learned of the complaint, and committee volunteers started to affix the corrective stickers on October 26, 2018. The Perske committee estimates that the corrective sticker had been applied to substantially all of the signs by November 2, 2018. In response to a Board question regarding the cost of correcting the signs, Mr. Zoll states that the stickers to update the disclaimer cost \$387.53. Before the reused signs were distributed the committee bought other stickers that were used to change the office referenced on the signs from “Congress” to “MN Senate”. The cost of the “MN Senate” stickers was \$1,705.73.

Probable Cause Hearing

In considering the allegation that the Perske committee accepted the contribution of campaign signs from an unregistered association the Board determined that Mr. Perske’s 2014 congressional campaign committee, named Joe Perske for US Congress, filed a termination report with the Federal Election Commission (FEC) on November 27, 2014. The requested termination was granted by the FEC by letter dated December 3, 2014. Therefore, the signs could not have been contributed by the congressional committee because it had been terminated for 3½ years prior to the date of the contribution. Mr. Perske took possession of the campaign signs when the congressional committee shut down, and later made the decision to donate them to his senate committee. The Perske senate committee properly disclosed the in-kind contribution of the signs as a contribution from the candidate.

Because the signs were donated by the candidate, the \$1,000 contribution limit for unregistered associations does not apply. Mr. Perske signed the public subsidy agreement for the senate special election. Minnesota Statutes section 10A.27, subdivision 10, permits a senate committee to accept up to \$5,000 in contributions from the committee’s own candidate when the candidate has signed a public subsidy agreement. While the pre-general report of receipts and expenditures filed by the Perske committee acknowledges that the value of the signs exceeded \$1,000, there is no basis to believe that the value of the signs exceeded \$5,000 based on the number of signs donated to the committee, and the cost to the committee to modify the signs before they were used in the senate campaign.

Mr. Zoll, in his written response and his appearance before the Board, acknowledged that the Perske committee violated the disclaimer requirement by preparing and disseminating campaign signs that lacked the correct committee name and address as well as signs that did not contain any disclaimer.

On December 5, 2018, the Board made the determination that there was not probable cause to believe that the Perske committee accepted a contribution of over \$1,000 from an unregistered association and dismissed the allegation. The Board also found that there was probable cause to believe that the Perske committee violated the disclaimer requirement in Minnesota Statutes section 211B.04, subdivision 1. An investigation was ordered for the purpose of preparing these findings, conclusions, and order to resolve the matter.

Analysis of Violation

Minnesota Statutes section 211B.04 requires a candidate's campaign committee to include a disclaimer on any campaign material that it causes to be prepared or disseminated. The disclaimer must identify the committee as the entity responsible for preparing and paying for the campaign material, and must provide either a physical address where the committee may be contacted, or a website address that in turn contains the physical address where the committee may be contacted. The Board may impose a civil penalty of up to \$3,000 for a violation of the disclaimer requirement pursuant to Minnesota Statutes section 10A.34, subdivision 4.

In this case, the Perske committee acknowledges that it violated Minnesota Statutes section 211B.04, subdivision 1, when it used campaign signs originally prepared for Mr. Perske's congressional campaign. The committee also states, and has documented, that it printed stickers containing the correct disclaimer and mobilized volunteers to correct the signs as soon as it became aware of the problem.

In determining an appropriate civil penalty for the violation, the Board found no reason to believe that the Perske committee reused the campaign signs without a correct disclaimer to either intentionally confuse voters, or deny responsibility for the signs. Indeed the Perske committee did go to the time and expense of modifying the signs for the office of senate. However, the requirement to have a disclaimer on campaign material is not new, and this was not the first political campaign for Mr. Perske. Further, the reused signs were used without the required disclaimer for the majority of the campaign before they were corrected in October and early November. The Board also notes that new campaign signs ordered by the Perske committee contained the correct disclaimer, which shows that members of the Perske committee were aware of the disclaimer requirement.

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD
August 2019**

ACTIVE FILES

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures Unpaid late filing fee on 10/31/16 Pre- General Election Report	\$1,000 LF \$1,000 CP \$50 LF	3/6/18	8/10/18			Board is working on the matter. Placed on hold.
Brenden Ellingboe	Ellingboe (Brenden) for House	Unfiled 2015 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	11/29/16	5/26/17			
Katy Humphrey, Kelli Latuska	Duluth DFL	Unfiled 2016 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	3/6/18	8/10/18			Board is working on the matter. Placed on hold. 3/5/19
Christopher John Meyer	Meyer for Minnesota	2016 Year-End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	7/28/17	9/6/17			
Dan Schoen		2017 Annual Statement of Economic Interest	\$100 LF \$1,000 CP	1/28/19	3/27/19			Placed on hold by Board.

