

Minnesota

Campaign Finance and Public Disclosure Board Meeting

Wednesday, September 1, 2021

10:00 A.M.

Conducted remotely via Webex due to COVID-19 pandemic

REGULAR SESSION AGENDA

1. Approval of July 28, 2021 minutes
2. Chair's report
 - a. 2021 meeting schedule
3. Executive director report
 - a. Request for Board guidance – contributions to charities
 - b. 2020 Lobbyist Disbursement Summary (provided at Board meeting)
4. Enforcement report
5. Review of recent judicial opinions
 - a. Americans for Prosperity Foundation v. Bonta
 - b. Thompson v. Hebdon
6. Legal report
7. Other business

EXECUTIVE SESSION

Immediately following regular session

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

.....
July 28, 2021

Room G-31

Minnesota Judicial Center

.....
MINUTES

Because the legislature did not confirm the appointments of Members Swanson and Rashid within 45 legislative days, the Board did not have a chair or a vice chair at the beginning of the meeting. The meeting therefore was called to order by Executive Director Sigurdson.

Members present: Flynn (attended by telephone), Leppik, Rashid, Rosen (arrived during executive director's report), Soule, Swanson

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

The meeting did not strictly follow the order of business set forth in the agenda.

MINUTES (April 9, 2021)

After discussion, the following motion was made:

Member Flynn's motion: To approve the April 9, 2021, minutes as drafted.

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

EXECUTIVE DIRECTOR REPORT

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson introduced staff member Erika Ross and told members that Ms. Ross was the person responsible for registrations in all programs and for lobbyist reporting. Mr. Sigurdson said that Ms. Ross had started work in December 2020 but that there had not been an opportunity until now to introduce her to members in person.

Mr. Sigurdson then reviewed the new security measures being implemented in the Centennial Office Building. Mr. Sigurdson told members that under the new procedures, visitors to the building would be required to sign in at the security desk. Visitors would need to identify themselves to get security badges or would have to be escorted at all times by a staff member. Mr. Sigurdson said that these security measures could make it difficult for members of the public to look at the Board's records and attend Board meetings, especially if someone wanted to remain anonymous.

Mr. Sigurdson next briefly reviewed the legislative changes to Chapter 10A. Mr. Sigurdson also discussed a change to Minnesota Statutes Chapter 3 that would expand the definition of lobbyist to include many more people including, potentially, administrative staff at lobbying firms. Mr. Sigurdson

said that this change would not take effect until January 2023 so that there was time to amend the language. Member Swanson asked staff to prepare a report for the next meeting on the history of the Board's lobbyist recommendations that included interactions with the Minnesota Governmental Relations Council and the events at the last committee hearing where the proposal was discussed.

A. Adoption of fiscal year 2022 budget

Mr. Sigurdson told members that the legislature had approved a 2% increase to the Board's budget for each fiscal year in the upcoming biennium. Mr. Sigurdson said that members needed to ratify the proposed budget for fiscal year 2022. Mr. Sigurdson said that the fixed costs of staff and office rent represented 91% of the fiscal year 2022 budget.

After discussion, the following motion was made:

Member Leppik's motion: To ratify the proposed budget for fiscal year 2022.

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

APPOINTMENT OF BOARD OFFICERS

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that due to the failure of the legislature to confirm Members Swanson and Rashid before the 45th legislative day after their appointments, the Board currently did not have a chair or a vice chair. Mr. Sigurdson said that the Board could reappoint Members Swanson and Rashid to their former positions or appoint other members to the positions. Mr. Sigurdson suggested that the appointments expire on January 1, 2022.

After discussion, the following motion was made:

Member Rosen's motion: To appoint Member Swanson as chair, and Member Rashid as vice chair, for the remainder of 2021.

Vote on motion: A roll call vote was taken. All members voted in the affirmative (Swanson and Rashid abstained).

CHAIR'S REPORT

A. 2021 meeting schedule

The next Board meeting is scheduled for 10:00 a.m. on Wednesday, September 1, 2021.

ENFORCEMENT REPORT

A. Discussion items

1. Administrative termination of lobbyist Jenna Grove (3259)

Mr. Olson told members that the Clean Water Action Alliance of MN had asked that the lobbyist registration of Ms. Grove be terminated effective July 24, 2020, as she was no longer employed by that principal. Mr. Olson said that a voicemail had been left for Ms. Grove using the phone number on file asking her to file a termination statement, but that she had not done so. Mr. Olson stated that a reporting lobbyist for the same principal had filed disbursement reports inclusive of Ms. Grove through the end of 2020, so there would not be any outstanding reports if the termination was retroactive to 2020.

2. Administrative termination of the Norman County RPM (20231)

Mr. Olson told members that the Norman County RPM had failed to file its 2020 pre-general and year-end reports. Mr. Olson said that when a treasurer fails to respond to the Board's letters and emails, a certified letter is sent to the chair of record for the party unit. In this case, the chair for Norman County was listed as Marijo Vik. Mr. Olson said that Ms. Vik contacted Board staff and provided that she ceased to be an officer of the Norman County RPM about 5 years ago. Ms. Vik also provided that John Dullea, who was listed as the treasurer for the Norman County RPM, had died on August 26, 2020. Mr. Olson said that to Ms. Vik's knowledge there were no other officers of the Norman County RPM, and that with Mr. Dullea's death, the party unit might no longer exist. Mr. Olson said that the last report submitted by Mr. Dullea showed an ending cash balance for the party unit of \$963.09.

Mr. Olson said that Board staff also was contacted by Elizabeth Koller, the daughter of Mr. Dullea. Ms. Koller explained that she had closed all bank accounts in her father's name, including the account for the Norman County RPM. Mr. Olson stated that Board staff contacted Ron Huettl, Jr., the Director of Compliance, Operations, for the Republican Party of Minnesota. Mr. Huettl determined that the Norman County RPM was not currently active, and therefore, the remaining funds from Norman County RPM should be forwarded to the Republican Party of Minnesota and the Norman County RPM should be administratively terminated as a political party unit. Mr. Olson said that the Republican Party of Minnesota had confirmed that it had received a check from Ms. Koller and would record a contribution from the Norman County RPM on its 2021 year-end report of receipts and expenditures.

Mr. Olson said that Board staff was asking the Board to administratively terminate the Norman County RPM as of August 26, 2020, which was the date of Mr. Dullea's death. Mr. Olson stated that by using the August date for the date of the termination there would be no further reports of receipts and expenditures owed by the Norman County RPM.

After discussion, the following motion was made:

Member Leppik's motion: To approve the administrative terminations of lobbyist Jenna Grove and the Norman County RPM as requested by staff.

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

3. Request to refer matter to the Attorney General's Office – Jae Hyun Shim (Board of Behavioral Health and Therapy)

Mr. Olson told members that Jae Hyun Shim was a public official appointed to the Board of Behavioral Health and Therapy in 2016 and reappointed in May 2020. Mr. Olson said that Jae Hyun Shim's 2020 annual statement of economic interest due on January 25, 2021, had not been filed and that the maximum late filing fee of \$100 and the maximum civil penalty of \$1,000 had accrued. Mr. Olson stated that multiple notices had been sent to Jae Hyun Shim regarding the need to file the EIS. Mr. Olson said that staff was asking the Board to refer the matter to the Attorney General's Office to seek an order compelling filing of the EIS and payment of the balance owed.

After discussion, the following motion was made:

Member Rashid's motion: To refer the Jae Hyun Shim matter to the Attorney General's Office for further action.

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

B. Waiver requests

Name of Candidate or Committee	Late Fee & Civil Penalty Amount	Reason for Fine	Factors for Waiver and Recommended Action	Board Member's Motion	Motion	Vote on Motion
1. 6th Senate District DFL (20899)	\$2,000 LFFs \$2,000 CPs	2020 Pre-general 2020 Year-end	Treasurer was hospitalized in mid-September and was recovering from surgery and multiple injuries when reports came due. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 9.	A roll call vote was taken. All members voted in the affirmative.

<p>2. March of Dimes (5432)</p>	<p>\$325 LFF</p>	<p>2020 Lobbyist principal</p>	<p>Report due 3/15/2021 was filed 4/1/2021. Principal did not know that a lobbyist was registered on its behalf in 2020. Principal had two lobbyists until early 2018 and only one terminated registration following restructuring of organization. Principal's contact person stopped working for principal in August 2020 and principal learned of need to file report after report came due, shortly after new lobbyist registered on its behalf. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 1 through 9.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>3. Minnesota School Counselors Association (3060)</p>	<p>\$25 LFF</p>	<p>2020 Lobbyist principal</p>	<p>Report due 3/15/2021 was filed one day late. Employee of principal's accounting vendor attempted to file report electronically several times before due date but was unable to access Board's reporting system using login credentials provided. She learned that she could submit report using PDF form instead and then did so. Board staff believes principal's accounting vendor was attempting to log into wrong page on Board's website. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 1 through 9.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>4. Minnesota State Cattlemen's Association (536)</p>	<p>\$25 LFF</p>	<p>2020 Lobbyist principal</p>	<p>Report due 3/15/2021 was filed one day late. Principal underwent staffing changes and person responsible for filing report was on maternity leave when report came due. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 1 through 9.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>5. Meridian Behavioral Health (6721)</p>	<p>\$300 LFF</p>	<p>2020 Lobbyist principal</p>	<p>Report due 3/15/2021 was filed 3/31/2021. Principal underwent staff reductions due to COVID-19 within office that handles corporate filings. As a result, principal's staff was not aware of need to file report until certified letter was received and then report was promptly filed. RECOMMENDED ACTION: Waive</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 1 through 9.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>6. Steamfitters-Pipefitters Local 455 (7515)</p>	<p>\$300 LFF</p>	<p>2020 Lobbyist principal</p>	<p>Report due 3/15/2021 was filed 3/31/2021. Principal's two lobbyists terminated registrations on behalf of principal effective 1/31/2020. Board staff sent letter to principal in 2/2020 notifying it of need to file principal's report covering 2020 by 3/15/2021 and suggesting that it do so early so that report would not be overlooked. Principal filed report covering 2019 on time but did not realize it also needed</p>	<p>Member Leppik</p>	<p>To approve the staff recommendation for requests 1 through 9.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

			to file report covering 2020 as it did not believe it was represented by lobbyist in 2020. There were no lobbying disbursements made in 2020. RECOMMENDED ACTION: Waive			
7. Jessica Nolan Spinner (4565)	\$225 LFF	1st 2021 Lobbyist	Report due 6/15/2021 was filed 6/28/2021. Lobbyist was on maternity leave from 4/5/2021 to 6/28/2021. Lobbyist is reporting lobbyist for three other lobbyists and report disclosed no lobbying disbursements. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 9.	A roll call vote was taken. All members voted in the affirmative.
8. Peter Martin (2344)	\$400 LFF	1st 2021 Lobbyist	Report due 6/15/2021 was filed 7/8/2021. Lobbyist did not receive reminders regarding need to file report as contact information on file was incorrect. Lobbyist changed law firms and believed he had updated his contact information via Board's website several months ago. Lobbyist has filed each lobbyist report on time since 2010. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 9.	A roll call vote was taken. All members voted in the affirmative.
9. Melissa Lesch (1959)	\$50 LFF	1st 2021 Lobbyist	Report due 6/15/2021 was filed two days late. Lobbyist did not receive mailed reminder regarding need to file as address on file was incorrect. Lobbyist changed from being contract lobbyist to working directly for principal and there was confusion as to who was reporting lobbyist. Lobbyist is reporting lobbyist for two other lobbyists and report disclosed no lobbying disbursements. RECOMMENDED ACTION: Waive	Member Leppik	To approve the staff recommendation for requests 1 through 9.	A roll call vote was taken. All members voted in the affirmative.

13. Minnesota Seasonal Recreational Property Owners PAC (30591) – 24-hour notice - \$1,000 LFF

The Minnesota Seasonal Recreational Property Owners PAC incurred a \$1,000 late filing fee for a 24-hour notice due 8/5/2020 that was never filed. The contribution was first disclosed on the September report. The treasurer forgot about the 24-hour notice requirement and was accompanying a family member to a medical appointment the day the contribution was received. The contribution in question was a \$2,500 contribution from an individual. The Board typically reduces 24-hour notice late fees for first-time violations to \$250. The fund reported a cash balance of \$1,026 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250.

Treasurer Judy Corrigan appeared in person at the meeting to address the Board. Ms. Corrigan confirmed that she had forgotten about the notice requirement because she was taking her brother to a medical appointment. Ms. Corrigan acknowledged the \$50 waiver that had been granted 11 years ago for a campaign finance report but stated that this was the first time in 20 years that she had forgotten to file a 24-hour notice. Ms. Corrigan asked the Board to waive the entire late filing fee.

After discussion, the following motion was made:

Member Flynn's motion:	To reduce the late filing fee to \$250.
Vote on motion:	A roll call vote was taken. All members voted in the affirmative.

17. Carpenters Local 322 (30642) – 24-hour notice - \$1,000 LFF

The Carpenters Local 322 incurred a \$1,000 late filing fee for a 24-hour notice due 10/28/2020 that was never filed. The contribution was first disclosed on the year-end report. The treasurer was under the impression that the fund's supporting association was not going to make a contribution to the fund during the pre-general 24-hour notice period. The contribution in question was a \$1,373 contribution from the fund's supporting association. The fund has not incurred a late filing fee since 2012 and has timely filed multiple 24-hour notices in the past. The Board typically reduces 24-hour notice late fees for first-time violations to \$250. The fund reported a cash balance of \$12,895 as of 12/31/2020.
RECOMMENDED ACTION: Reduce to \$250.

Treasurer Jim Leuthner appeared in person at the meeting to address the Board. Mr. Leuthner stated that this was the first late filing fee for the Local since 2011. Mr. Leuthner said that the Local had good separation of financial duties and that the error occurred solely due to a timing issue with the monthly transfer from the supporting association. Mr. Leuthner asked the Board to waive the late filing fee.

After discussion, the following motion was made:

Member Rosen's motion:	To reduce the late filing fee to \$250.
Vote on motion:	A roll call vote was taken. All members voted in the affirmative.

21. 67th Senate District DFL (20422) – 2020 year-end report - \$1,000 LFF, \$1,000 CP

The 67th Senate District DFL incurred a \$1,000 late filing fee and a \$1,000 civil penalty for a report due 2/1/2021 that was filed 4/2/2021. The party unit had leadership changes and the new treasurer did not understand how to use the CFR software. Also, the previous treasurer did not properly back up the party unit's CFR data. The party unit reported a cash balance of \$4,481 as of 12/31/2020.
RECOMMENDED ACTION: Waive CP and reduce LFF to \$500.

Chair Terri Thao appeared in person at the meeting to address the Board. Ms. Thao confirmed that the report was late because the treasurer was new and did not understand the CFR software. Ms. Thao said that the party unit had a very low cash balance and asked the Board to reduce the late filing fee to \$250.

After discussion, the following motion was made:

Member Rosen's motion:	To waive the civil penalty and reduce the late filing fee to \$500.
Vote on motion:	A roll call vote was taken. All members voted in the affirmative.

Remaining waiver requests

<p>10. Committee to Elect Heidi Gunderson for House (17664)</p>	<p>\$2,050 LFFs</p>	<p>2017 Year-end 2019 Year-end 2020 Year-end</p>	<p>Candidate attempted to file year-end no-change statement for 2017 on due date, 1/31/2018, but mistakenly filed another copy of 2016 year-end no-change statement instead. 2017 year-end no-change statement was filed 2 days later resulting in \$50 LFF. Candidate attempted to file year-end no-change statement for 2019 on due date, 1/31/2020, but mistakenly filed another copy of 2018 year-end no-change statement instead. Candidate attempted to file year-end no-change statement for 2020 one day after due date, 2/1/2021, but again mistakenly filed another copy of 2018 year-end no-change statement instead. Board staff had difficulty contacting committee and candidate filed year-end no-change statements for 2019 and 2020 on 3/30/2021 after being contacted by phone, resulting in \$1,000 LFF for each of those two statements. LFF for 2020 year-end report would have been \$25 had correct statement been filed 2/1/2021. Committee has been dormant since 2015, has cash balance of \$1,233, and intends to terminate. RECOMMENDED ACTION: Waive LFF for 2017 report and reduce LFFs for 2019 and 2020 reports to \$125 each leaving a total of \$250 owed.</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>11. OutFront Minnesota Action (70033)</p>	<p>\$700 LFF</p>	<p>2020 Pre-general 24-hour notice</p>	<p>24-hour notice due 10/28/2020 was filed 11/18/2020. Due to staffing changes and pace of activity before general election committee did not discover contribution until weeks after receipt. Contribution in question was \$2,500 contribution from party unit. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Committee reported cash balance of \$5,746 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

<p>12. Volunteer for Dori (Trossen) (18531)</p>	<p>\$1,000 LFF</p>	<p>2020 Pre-general 24-hour notice</p>	<p>24-hour notice due 11/1/2020 regarding \$1,000 contribution from party unit was never received and contribution was first disclosed on year-end report. Treasurer states that he attempted to and believed that 24-hour notice was timely filed via CFR software. Four other 24-hour notices were timely filed during pre-general 24-hour notice period by committee. However, Board's logs do not indicate attempt to file 24-hour notice via CFR software on date contribution in question was received or following day. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Committee reported cash balance of \$4,720 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>14. Take Action PAC (70026)</p>	<p>\$1,000 LFF</p>	<p>2020 Pre-general 24-hour notice</p>	<p>24-hour notice due 10/31/2020 was not filed and contribution was first disclosed on year-end report. Treasurer states contribution was timely entered in CFR but they forgot to file 24-hour notice. Contribution in question was \$2,000 contribution from political committee. Committee has not incurred late filing fee since 2011 and timely filed 24-hour notice during pre-primary notice period. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Committee reported cash balance of \$81,847 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>15. IBEW Minn State Council PAC (40404)</p>	<p>\$1,000 LFF</p>	<p>2020 Pre-general 24-hour notice</p>	<p>24-hour notice due 10/26/2020 was filed 1/21/2021 when 2020 year-end report was filed. Due to extra tasks and being in and out of office because of COVID-19, 24-hour notice requirement was overlooked. Contribution in question was \$30,000 contribution from IBEW Minn State Council. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Committee does have prior violation of 24-hour notice requirement but that was in 2012. Committee reported cash balance of \$26,112 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

<p>16. North Central States Carpenters PAC (30561)</p>	<p>\$1,000 LFF</p>	<p>2020 Pre-primary 24-hour notice</p>	<p>24-hour notice due 7/29/2020 was filed 10/20/2020 and contribution was first disclosed on September report. Staff of fund's supporting association were mostly working remotely due to pandemic. Contribution in question was \$25,000 contribution from fund's supporting association. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Fund previously failed to file 24-hour notice during 2018 pre-primary period but paid \$1,000 late filing fee in full. Fund reported cash balance of \$1,895 as of 12/31/2020. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>18. Minneapolis Regional Labor Federation (30011)</p>	<p>\$1,025 LFFs</p>	<p>2020 Pre-primary 24-hour notice, Sept. 2020</p>	<p>24-hour notice due 7/31/2020 was never filed and contribution was first disclosed on September report, resulting in \$1,000 LFF. Contribution in question was \$40,000 contribution from fund's supporting association. Treasurer states that fund did not make any expenditures related to primary election but fund did give \$6,600 to various local candidates in July 2020. Report due 9/22/2020 was filed one day late resulting in \$25 LFF. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Fund reported cash balance of \$14,484 as of 12/31/2020. RECOMMENDED ACTION: Reduce LFF for 24-hour notice to \$250 leaving total balance of \$275</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>19. 60th Senate District RPM (20493)</p>	<p>\$825 LFF</p>	<p>2020 Year-end</p>	<p>Report was due 2/1/2021 and no-change statement was filed 3/19/2021. New treasurer was not given copy of party unit's 2020 CFR data and did not obtain copies of party unit's bank statements until after report was due. Treasurer also had difficulty reconciling party unit's cash balance and wanted to avoid filing inaccurate report. Party unit reported cash balance of \$2,279 as of 12/31/2020 and paid \$250 LFF for pre-general report in Feb. 2021. RECOMMENDED ACTION: Reduce to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

<p>20. Joe Patino Campaign (18394)</p>	<p>\$2,000 LFFs \$1,000 CP</p>	<p>2019 Year-end 2020 Year-end</p>	<p>Reports due 1/31/2020 and 2/1/2021 were each filed 4/2/2021, resulting in LFF of \$1,000 for each report and CP of \$1,000 for 2019 report. Candidate thought committee had been terminated and moved out of state in 2019. Committee had \$425 after 2018 election, gave \$400 of that amount to party unit in 2020, and has been terminated. Contributions received by committee consisted solely of \$685 spent by candidate and \$400 given by party unit in 2018. Candidate has requested payment plan if waiver request is not granted. He can pay up to \$300 per month starting in 11/2021 as he is on active duty military status and is currently undergoing training. RECOMMENDED ACTION: Waive LFF for 2020 report and CP for 2019 report, reduce LFF for 2019 report to \$100, and authorize plan to pay \$100 by 11/5/2021.</p>	<p>Member Rosen</p>	<p>To waive the LFF for the 2020 report and the CP for the 2019 report, to reduce the LFF for the 2019 report to \$250, and to authorize a plan to pay the \$250 by 11/5/2021.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>22. Somali American Women Political Action Committee (41235)</p>	<p>\$1,625 LFFs</p>	<p>2020 Pre-primary, Sept. 2020, 2020 Year-end</p>	<p>Pre-primary no-change statement was filed 3 days late resulting in LFF of \$150. September no-change statement due 9/22/2020 was filed 10/20/2020 resulting in LFF of \$500. Year-end no-change statement due 2/1/2021 was filed 3/29/2021 resulting in LFF of \$975. Newly formed committee was dealing with disruptions caused by COVID-19 and much of its leadership was focused on food and housing emergency assistance for Somali community rather than committee's operation. Committee reported cash balance of \$9,900 as of 12/31/2020. Staff recommendation to waive LFFs for the pre-primary and September reports is based on fact that committee had no financial activity prior to 9/20/2020 and therefore was not required to register with Board until after end of period covered by September report. RECOMMENDED ACTION: Waive LFFs for pre-primary and September reports and reduce LFF for year-end report to \$250</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>

<p>23. Kelly Gunderson (House Candidate)</p>	<p>\$100 LFF \$1,000 CP</p>	<p>Original EIS</p>	<p>Candidate filed affidavit of candidacy 6/2/2020, making EIS due 6/16/2020. In span of three weeks candidate hastily filed for office, went on vacation, failed to secure party endorsement, and ended her campaign. During ensuing weeks candidate was busy seeking employment, caring for her children, and dealing with property theft, and she forgot about need to file EIS. She states that she did not sign for certified letter that was sent by Board staff due to COVID-19. She apparently received notices sent via first-class mail but didn't open envelopes. Candidate was referred to AGO in 9/2020 and was served with summons and complaint on 2/25/2021. EIS was filed 4/12/2021. RECOMMENDED ACTION: Reduce CP to \$500 leaving total balance of \$600</p>	<p>Member Flynn</p>	<p>To approve the staff recommendation for requests 10 through 23, excluding requests 13, 17, 20, and 21.</p>	<p>A roll call vote was taken. All members voted in the affirmative.</p>
<p>24. Jaden Partlow (Senate Candidate)</p>	<p>\$100 LFF \$1,000 CP</p>	<p>Original EIS</p>	<p>Candidate filed affidavit of candidacy 6/1/2020, making EIS due 6/15/2020. Affidavit of candidacy did not include candidate's apartment number so mail sent by Board staff was returned as undeliverable. Candidate states that he was unaware of need to file EIS. However, Board staff emailed him regarding need to file EIS on 6/22/2020, 6/29/2020, 7/30/2020, and 8/21/2020, using email address candidate later listed on his EIS, and Board staff spoke with candidate by phone on 7/30/2020. Candidate was referred to AGO in 9/2020 and was served with summons and complaint on 6/18/2021. EIS was filed 7/8/2021. RECOMMENDED ACTION: No action</p>	<p>No motion</p>		
<p>25. James Knips (Nobles SWCD)</p>	<p>\$125 LFFs</p>	<p>2019 Annual EIS 2020 Annual EIS</p>	<p>Annual EIS due 1/27/2020 was filed 2/19/2020 resulting in \$30 LFF. Annual EIS due 1/25/2021 was filed 3/8/2021 resulting in \$95 LFF. Official stated that he travels during winter and in each case filed EIS after returning to Minnesota. Official was first elected in 1980 and has been required to file annual EIS covering each year from 2007 onward. RECOMMENDED ACTION: No action</p>	<p>No motion</p>		

C. Informational Items

1. Payment of civil penalty for affiliation with an individual who falsely certified a report

Duluth DFL, \$1,500

2. Partial payment of civil penalties for conversion to personal use and false certification

Tamara Jones, \$558 (3 x \$186)

3. Payment of civil penalty for exceeding party unit aggregate contribution limit

Vote Duckworth (Zach), \$250

4. Payment of civil penalty for exceeding individual contribution limit

Minnesotans for Justice Paul Thissen, \$125

5. Payment of late filing fee for 2020 year-end report of receipts and expenditures

Dennis Smith for State House, \$1,000

6. Payment of civil penalty for 2020 year-end report of receipts and expenditures

Dennis Smith for State House, \$1,000

7. Payment of late filing fee for 2020 pre-general 24-hour notice

Freedom Club State PAC, \$1,100
Kaehler (Ralph) For MN Senate, \$250
Wending for House, \$250
Jose (Jimenez) for MN, \$50
Chamberlain (Roger) for SD 38, \$50

8. Payment of late filing fee for 2020 pre-primary 24-hour notice

Planned Parenthood Minnesota PAC, \$1,000
Faith in Minnesota Fund, \$1,000

9. Payment of late filing fee for 2020 pre-primary report of receipts and expenditures

Whitmore (Isaiah) for 59B, \$250
Duluth DFL, \$50

10. Payment of late filing fee for 2018 pre-general report of receipts and expenditures

Minneapolis DFL Committee, \$1,000
Unidos Votamos Political Fund, \$1,000

11. Payment of civil penalty for 2018 pre-general report of receipts and expenditures

Minneapolis DFL Committee, \$1,000

12. Payment of late filing fee for September 2018 report of receipts and expenditures

Unidos Votamos Political Fund, \$1,000

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

Duluth DFL, \$1,000

14. Payment of late filing fee for lobbyist disbursement report due 6/15/2021

Jeffrey Hayden, \$600 (6 x \$100)
Ian Marsh, \$150 (6 x \$25)
Brian McDaniel, \$50 (2 x \$25)
Hubert (Buck) Humphrey, \$25
Matthew Bergeron, \$25

15. Payment of late filing fee for lobbyist disbursement report due 1/15/2021

Joel Carlson, \$75
Patrick Rosenstiel, \$25
James Erickson, \$25
Julie Ketchum, \$25
Christa Anders, \$25
Byron Laher, \$75

16. Payment of late filing fee for lobbyist principal report due 3/15/2021

Dominium Development & Acquisition LLC, \$300
SEIU Local 26, \$275
Remedy Analytics, Inc., \$275
American Petroleum Institute (API), \$225
Gopher Resource Corporation, \$175
Renewable Energy Partners, \$125
American Heart Association, \$125
Viking Gas Transmission Co., \$100
Restoration Hardware, \$50
MN Hockey Ventures Group, \$50
Allstate Insurance Co., \$50
Minnesotans for Lawsuit Reform Inc., \$25
Kim Pettman, \$25

17. Payment of late filing fee for lobbyist principal report due 3/16/2020

SEIU Local 26, \$1,000
Great River Rail Commission, \$25

18. Payment of civil penalty for lobbyist principal report due 3/16/2020

SEIU Local 26, \$1,000

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

ChiroHealth, \$1,000
YWCA of Minneapolis, \$500

20. Payment of civil penalty for lobbyist principal report due 3/15/2019

ChiroHealth, \$1,000

21. Payment of late filing fee for 2020 Annual EIS

Weston Kooistra, \$90
Paul Enestvedt, \$90
Ben Weeks, \$65
Michael Everson, \$50
James Prom, \$35
Jordan Bergeman, \$25
Cynthia Rowley, \$20
Thomas Schabel, \$20
Daryl Schutte, \$10
Edward Arnesen, \$10
John Glynn, \$5

22. Payment of late filing fee for 2019 Annual EIS

Jordan Bergeman, \$20

23. Payment of late filing fee for 2017 Annual EIS

Daryl Schutte, \$10

24. Payment of late filing fee for 2016 Annual EIS

Jordan Bergeman, \$10

25. Forwarded anonymous contributions

Unidos Votamos Political Fund, \$3,433.55

26. Return of public subsidy due to subsidy exceeding expenditures

Hausman (Alice) Volunteer Committee, \$227.59

27. Return of public subsidy due to overpayment

Citizens for Jeff Backer Jr House, \$436.63
Rarick (Jason) for Senate, \$68.41

PRIMA FACIE DETERMINATION

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that complaints filed with the Board are subject to a prima facie determination which is usually made by the Board chair in consultation with staff. Mr. Sigurdson said that when the Board does not have a chair, a vice chair, or a quorum, the complaint is referred to the member with the longest tenure on the Board. In June of 2021 the senior Board member was Daniel Rosen. Mr. Sigurdson said that the complaint regarding Alexander Minn and the Bull Moose Party was dismissed by Member Rosen on June 16, 2021, because it concerned expenditures for candidates running for local office and the Board has no jurisdiction over those elections. Mr. Sigurdson stated that the prima facie determination was being provided as an informational item to members and that no further action of the Board was required.

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 told members that pleadings had been served in most matters on the report, that some people had filed their reports and submitted waiver requests, and that the next step in the other matters would be to pursue default or summary judgements.

OTHER BUSINESS

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 the following to report into regular session:

Probable cause determination in the matter of the complaint of the Minnesota DFL regarding Action 4 Liberty and Action 4 Liberty PAC

Probable cause determination in the matter of the complaint of the Minnesota DFL regarding the North Star Liberty Alliance and Rep. Erik Mortensen

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

Respectfully submitted,

Jeff Sigurdson
Executive Director

Attachments:

Executive director report

Memorandum regarding appointment of Board officers

Memorandum regarding prima facie determination

Legal report

Probable cause determination in the matter of the complaint of the Minnesota DFL regarding Action 4 Liberty and Action 4 Liberty PAC

Probable cause determination in the matter of the complaint of the Minnesota DFL regarding the North Star Liberty Alliance and Rep. Erik Mortensen

DRAFT



MINNESOTA

CAMPAIGN FINANCE BOARD

Board Meeting Dates for Calendar Year 2021

Meetings are at **10:00 A.M.** unless otherwise noted.

2021

Wednesday, October 6

Wednesday, November 3

Wednesday, December 1



MINNESOTA CAMPAIGN FINANCE BOARD

Date: August 25, 2021

To: Board Members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Executive Director's Report

Board operations

All state agencies are required to annually certify that they have reviewed their internal control systems and procedures, and are either in compliance with the standards and policies established by the Commissioner of Minnesota Management and Budget (MMB), or are taking the actions described to gain compliance with those standards. The self-assessment tool and the certification cover 65 state policies and requirements. The policies range from code of conduct training for staff to a detailed review of the procedures used to prevent fraud and safeguard public funds. The agency rates itself on its performance in meeting the state standards, and then MMB reviews the assessment and makes recommendations. This procedure has been in place since 2012. This is the first year that the Board could certify that it has policies or controls in place that comply with all applicable standards. The self-assessment was conducted by Ms. Pope, and was certified by the Board Chair and myself on August 18th.

Centennial Office Building

The planned opening of the Centennial Office Building to the public has been rescheduled. The tentative opening date is now October 1st. The Board's office is staffed each day, although typically with only two or three staff members at a time.

Review of legislative recommendations regarding lobbying

Chair Swanson requested a chronology of the Board's legislative recommendations regarding lobbying including interactions with the Minnesota Governmental Relations Council (MGRC), and a review of legislative action on the recommendations. A chronology of significant actions related to the lobbyist recommendations is below.

Date		Action
October 2019		Staff presents initial version of lobbying program recommendations to Board.
November 2019		MGRC provides comment to the Board and provides that the MGRC is neutral or supportive of proposed changes to lobbyist registration and principal reporting, but does not support changes to information reported by lobbyists. MGRC states that it will survey its members on proposal and provide results to Board.
December 2019		Staff meets with members of MGRC to develop changes for proposal that address MGRC concerns.
January 2020		Staff brings modified lobbying program recommendations that replace requirement for reporting a specific issue that required 10% or more of a lobbyist's time with requirement to report no more than four most important subjects lobbied on during the session. Board approves recommendation as a legislative proposal.
February 2020		MGRC provides Board with results of member survey and states that the MGRC is forming a task force to work on the proposal and provide further feedback to staff. Board votes to withdraw the lobbyist proposal from the legislative recommendations to allow staff to work with the MGRC on the proposal. The stated goal is to have a finished proposal for the legislature by the fall of 2020.
September 2020		Staff meets with MGRC task force, incorporates some MGRC recommendations on how to determine which actions on behalf of a principal must be reported, and modifies the requirement that a bill number be identified for all legislative lobbying that represents over 25% of total effort.
November 2020		Modified lobbyist proposal provided to Board. Board directs staff to make changes to recommendations and bring back for final consideration.
December 2020		Staff releases functional mockup of web-based reporting for lobbyists if legislative proposal is adopted. Mockup of application is provided to MGRC and the public for evaluation of reporting requirements.
January 2020		Board approves lobbyist program legislative recommendations

2020 Legislative Session		The executive director meets with legislators on the lobbying proposal. However, the pandemic ends any opportunity to introduce the legislation during session.
February 2021		Staff meets with MGRC leadership to review remaining concerns. Amendment is drafted to address process for acquiring additional information on lobbying subjects.
March 2021		Lobbying proposal is introduced as HF 2173 by Representative Nelson
March 12, 2021		Bill is heard in the House State Government and Finance Committee and is laid on the table by Chair Nelson after testimony by the MGRC, which means no further action will be taken on the bill. The proposal was not introduced in the Senate.

As overview, the current version of the lobbying program recommendations as found in House File 2173 is significantly different, and in my view better, than the version that was first presented to the Board in 2019. The MGRC deserves credit for working with staff to improve the recommendations. In the end however, the MGRC did not support the legislation when it was heard in the House State Government and Finance Committee on March 12, 2021. The committee hearing is available for viewing at the legislative website - [Minnesota House of Representatives \(state.mn.us\)](https://www.house.leg.state.mn.us) The presentation and testimony on the bill starts at the 54:19 mark, and lasts about 24 minutes. Chair Nelson states that he believes that further work is needed on the bill. I will reach out to the MGRC so as to understand their concerns at this point.



MINNESOTA CAMPAIGN FINANCE BOARD

Date: August 25, 2021

To: Board members

From: Jeff Sigurdson, Executive Director

Telephone: 651-539-1189

Re: Request for Guidance – use of contributions received from Anton Lazzaro

As widely discussed in the media, Anton Lazzaro made large personal contributions to a number of Republican candidates, Republican party units, and conservative political committees. Mr. Lazzaro now faces serious federal charges that raise questions about the source of the money used for his political contributions. As a result, although no law requires them to do so, many candidates and party units have publicly stated that they will not keep the contributions from Mr. Lazzaro. A list of the \$93,295 in itemized contributions made during the years 2017 to 2020 from Mr. Lazzaro to committees registered with the Board is shown in Table 1. Any contributions made by Mr. Lazzaro in 2021 will not be reported to the Board prior to the year-end report due on January 31, 2022.

A contribution may always be returned to the donor, within 90 days to clear a contribution limit violation, or at any time that the committee no longer wishes to retain the contribution. However, because of the charges against Mr. Lazzaro, committees apparently are not willing to return the money to him. Instead, candidates and party units have stated that they will send an amount equal to the contributions from Mr. Lazzaro to charitable organizations, typically organizations that provide shelter and other resources to women in crisis.

The potential problem with these donations is that a candidate committee, political party unit, or political committee may use contributions received only for the purposes found in Minnesota Statutes section 211B.12. This statute provides that contributions received may be spent on items related to the conduct of election campaigns, non-campaign disbursements as provided in Chapter 10A, and the following charitable contributions:

(6) charitable contributions of not more than \$100 to any charity organized under section 501(c)(3) of the Internal Revenue Code annually, except that the amount contributed is not limited by this clause if the political committee, political fund, party unit, principal campaign committee, or campaign fund of a candidate for political subdivision office that made the contribution dissolves within one year after the contribution is made;

To ensure that candidates and treasurers were aware of this limitation staff sent an email on August 13th to candidates and treasurers of committees that received contributions from Mr. Lazzaro that explained the limitations on charitable contributions (excluding committees that have terminated, which are highlighted in yellow in Table 1). However, it seems clear that some charitable contributions over \$100 have already been made, as seen in social media posts and news media reports. Additionally, in some cases it would be difficult for the committee to donate the money in \$100 increments. For example, the Republican Party of Minnesota received over \$31,000 from Mr. Lazzaro; that would require 310 separate contributions to 501(c)(3) organizations to devest that amount.

I anticipate that some year-end campaign finance reports will report contributions of over \$100 to charities for the purpose of dispensing Mr. Lazzaro's contributions. The standard procedure for committees that report a charitable contribution of over \$100 is for staff to require the committee to get back from the charity any amount over \$100, or to have the candidate personally pay the committee for the portion of the contribution over \$100. The Board could of course continue this practice. However, I am unsure of the policy goal achieved by making it difficult for any committee to remove tainted political contributions by giving to a charity for presumably a good purpose.

The Board cannot rewrite the requirements of Minnesota Statutes section 211B.12, but it can prioritize the use of staff resources. The Board may wish to direct the executive director to begin a staff review of excess charitable contributions used to dispense problematic contributions only if that would be the best allocation of staff time given other enforcement issues. This may also be an issue to revisit after the filing of the year-end reports. At that time I will be able to report on the actual number of committees with a potential charitable contribution violation.

Table 1

Committee Name	Date	Amount
Housley, Karin Senate Committee	12/30/2019	\$500
Daudt, Kurt House Committee	12/22/2018	\$1,000
Honour, Scott Gov Committee	5/30/2014	\$250
Honour, Scott Gov Committee	2/23/2014	\$1,000
Johnson, Jeff R Gov Committee	8/22/2017	\$4,000
Wardlow, Doug Atty Gen Committee	10/11/2018	\$500
Wardlow, Doug Atty Gen Committee	8/20/2018	\$500
Wardlow, Doug Atty Gen Committee	3/19/2018	\$150
Yang, Yele-Mis House Committee	4/16/2018	\$850
Yang, Yele-Mis House Committee	3/19/2018	\$150
Johnson, Lacy Lee House Committee	9/27/2018	\$200
Johnson, Lacy Lee House Committee	8/30/2018	\$200
Johnson, Lacy Lee House Committee	7/21/2018	\$300
Rarick, Jason Senate Committee	1/18/2019	\$250
Schwanke, Ben Senate Committee	10/26/2020	\$500
Schwanke, Ben Senate Committee	1/7/2020	\$500
Pfliger, Jesse House Committee	6/30/2020	\$500
Republican Party of Minn	7/10/2020	\$5,000
Republican Party of Minn	5/22/2020	\$30
Republican Party of Minn	5/21/2020	\$30
Republican Party of Minn	5/5/2020	\$20
Republican Party of Minn	5/31/2019	\$5,000
Republican Party of Minn	10/29/2018	\$9,900
Republican Party of Minn	10/29/2018	\$9,900
Republican Party of Minn	6/4/2018	\$1,050
Republican Party of Minn	5/22/2018	\$90
5th Congressional District RPM	7/11/2019	\$250
5th Congressional District RPM	7/11/2019	\$250
5th Congressional District RPM	3/11/2019	\$25
5th Congressional District RPM	7/11/2018	\$250
5th Congressional District RPM	7/11/2017	\$250
59th Senate District RPM	5/17/2020	\$250
59th Senate District RPM	10/27/2018	\$500
59th Senate District RPM	3/12/2018	\$550
59th Senate District RPM	2/12/2018	\$600
33rd Senate District RPM	8/10/2020	\$500
33rd Senate District RPM	6/15/2019	\$300
Freedom Club State PAC	9/4/2020	\$3,000
Freedom Club State PAC	7/18/2019	\$1,000
Freedom Club State PAC	10/16/2018	\$10,000
Freedom Club State PAC	8/23/2018	\$15,000

Log Cabin Republicans of Minnesota	5/16/2019	\$2,000
Log Cabin Republicans of Minnesota	12/10/2018	\$500
Young Republican League	11/1/2019	\$3,000
Young Republican League	2/7/2019	\$2,000
Minnesotans for Bold Reform	7/7/2018	\$5,000
Right Tech PAC	6/17/2019	\$2,500
MN Young Republicans Victory Fund	10/28/2020	\$3,200



MINNESOTA CAMPAIGN FINANCE BOARD

Date: August 25, 2021
To: Board members
Counsel Hartshorn
From: Andrew Olson, Legal/Management Analyst
Subject: Enforcement report for consideration at the September 1, 2021 Board meeting

A. Discussion Items

1. Marcus Harcus (House candidate) and lobbyist (2632) and MN Campaign for Full Legalization (7379) – Late fees and civil penalties for multiple reports and candidate EIS

Mr. Harcus owes a late filing fee of \$100 and a civil penalty of \$1,000 for his candidate statement of economic interest, which was due June 16, 2020 and was filed May 20, 2021.

Mr. Harcus owes a total of \$6,200 in late filing fees and civil penalties for lobbyist disbursement reports, including:

- Report due January 18, 2021 and filed May 20, 2021 – \$1,000 LFF
- Report due June 15, 2020 and filed May 20, 2021 – \$1,000 LFF and \$1,000 CP
- Report due January 15, 2020 and filed May 20, 2021 – \$1,000 LFF and \$1,000 CP
- Report due January 15, 2019 and filed March 16, 2019 – \$1,000 LFF
- Report due June 15, 2018 and filed June 27, 2018 – \$200 LFF

Mr. Harcus was the sole lobbyist, and is the executive director, of the MN Campaign for Full Legalization, which owes a total of \$4,275 in late filing fees and civil penalties for lobbyist principal reports, including:

- Report due March 15, 2021 and filed May 20, 2021 – \$1,000 LFF and \$1,000 CP
- Report due March 16, 2020 and filed May 20, 2021 – \$1,000 LFF and \$1,000 CP
- Report due March 15, 2019 and filed April 1, 2019 – \$275 LFF

In June 2019 the Board voted to reduce the amount total owed at that time for late filing fees for lobbyist disbursement reports from \$1,200 to \$200, and to reduce the LFF for the lobbyist principal report due in March 2019 from \$275 to \$200, contingent upon payment of the remaining balance. No payment was received despite two letters sent to Mr. Harcus seeking payment, therefore the amounts owed reverted back to the original amounts. The Board referred this matter to the Attorney General's Office in September 2020.

Mr. Harcus terminated his lobbyist registration effective May 20, 2021 and timely filed both the lobbyist disbursement report due June 15, 2021 and the lobbyist principal report covering 2021 that is due on March 15, 2022. Mr. Harcus does not have an active principal campaign committee registered with the Board and no longer has any outstanding or upcoming reports. Mr. Harcus is requesting that the total amount owed of \$11,575 be reduced to \$1,000, which is the balance remaining in the bank account of the MN Campaign for Full Legalization. Mr. Harcus states that his failure to timely file multiple reports was caused by personal problems and health issues that have hampered his ability to deal with the outstanding issues over the course of the past several years.

2. Jenny Rhoades for Governor (18141) and Jenny Rhoades (Senate candidate) – Late fees for two reports of receipts and expenditures and late fee and civil penalty for candidate EIS

Ms. Rhoades owes late filing fees of \$25 for the 2017 year-end report of receipts and expenditures and \$525 for the 2018 year-end/termination report of Jenny Rhoades for Governor (18141). That principal campaign committee was registered in April 2017 and disclosed a total of less than \$500 in receipts and less than \$500 in disbursements over the course of its existence. Ms. Rhoades states that she attempted to file a termination report covering 2018 via the CFR software prior to the 2018 year-end report coming due on January 31, 2019. A 2018 1st quarter report was timely filed via the software in April 2018, but Board staff has no record of a subsequent attempt to upload a report prior to the due date of the 2018 year-end report. A report covering 2018, labeled as a termination report, was filed on March 4, 2019 via the CFR software and the late filing fee of \$525 is based on that date. That report was later amended to list a cash balance of less than \$100, allowing the committee to be terminated. Board staff recommends that the late filing fees totaling \$550 for the 2017 year-end and 2018 year-end/termination reports be waived because the committee did not receive contributions or make expenditures in excess of \$750, and therefore was not required to register with the Board.

Ms. Rhoades was a candidate for state senator in 2020 and owes a late filing fee of \$100 and a civil penalty of \$1,000 for her candidate statement of economic interest, which was due June 15, 2020, and was filed July 8, 2021. Ms. Rhoades states that she was not aware of her failure to file her candidate EIS until she was served with a summons and complaint on June 29, 2021. However, on July 7, July 30, and August 21, 2020, letters were sent to the address listed on the affidavit of candidacy that Ms. Rhoades filed, explaining that her EIS had not been received. A copy of the letter dated August 21, 2020, was also sent to the email address that Ms. Rhoades listed on her affidavit of candidacy and her principal campaign committee's statement of organization, which is the same email address that Ms. Rhoades has used on several occasions to communicate with Board staff.

Ms. Rhoades also states that she uploaded the wrong attachment in July 2020. It is unclear which attachment she is referring to, but Ms. Rhoades emailed a copy of a paper 2020 pre-primary report for the Jenny Rhoades for SD49 committee (18681) to Board staff on July 27, 2020. The body of that email did not contain any text and the subject line was "Report 18681," appearing to indicate that the intent of the email was to file a pre-primary report, rather than an EIS. Regardless, Board staff mailed two letters and emailed Ms. Rhoades after that date, informing her that an EIS had not been received.

Ms. Rhodes has no prior waiver requests pertaining to her terminated principal campaign committees or to an EIS. Ms. Rhoades explains various personal problems that she encountered in 2020 within her

waiver request. Board staff recommends that the civil penalty be reduced from \$1,000 to \$500, which combined with the \$100 late filing fee will leave a balance owed of \$600 for the candidate EIS.

B. Waiver Requests

1	MMGMA PAC (80017)	\$3,000 LFFs	September 2020 2020 Pre-General 2020 Year-End	Data was entered in CFR software and the fund attempted to upload each report on its due date, which was 9/22/2020, 10/26/2020, and 2/1/2021, respectively. The Board's computer logs show that each upload was attempted and failed and an upload of the year-end report was attempted twice. The uploads may have failed for a variety of reasons including the loss of internet connection during the upload process or a firewall issue. Political funds are not required to file a report if they have had no financial activity since the period covered by a previous report, so Board staff did not contact the fund immediately after the reports were due. The issue was discovered as part of the reconciliation process and the missing reports were filed 6/30/2021 after the fund realized the reports had not been received previously. The fund reported a cash balance of \$464 as of the end of 2020.	No	Waive
2	Robert (Rob) Vanasek (1369)	\$175 LFFs (\$25 x 7)	1st 2021 Lobbyist	Lobbyist was preoccupied with a client project and a special legislative session and filed seven reports due 6/15/2021 one day late. Lobbyist has not incurred a late filing fee since 2015.	No	Reduce to \$100
3	YWCA of Minneapolis (5052)	\$250 LFF	2020 Lobbyist Principal	Responsibility for filing the report due 3/15/2021 was transferred to a new employee and principal believed that a report did not need to be filed if there were no lobbying expenditures. The report was filed 3/29/2021.	\$1,000 CP waived and \$1,000 LFF for 2018 report reduced to \$500 in May 2020 because designated lobbyist experienced personal issues that delayed the filing of the report	Reduce to \$125

C. Informational Items

1. Payment of civil penalty for recordkeeping violation

Minneapolis DFL Committee, \$3,000

2. Payment of civil penalty for exceeding individual contribution limit

Brad Kovach Committee to Elect for House, \$600
Isaacson (Jason) for SD 42, \$100
Campaign of Ann Johnson Stewart, \$31.72

3. Payment of civil penalty for corporate contribution

John Neisen Enterprises LLC, \$250

4. Partial payment of civil penalties for conversion to personal use and false certification

Tamara Jones, \$186

5. Payment of civil penalty for exceeding aggregate special source contribution limit

Jon Koznick for House, \$100

6. Payment of civil penalty for exceeding party unit aggregate contribution limit

Isaacson (Jason) for SD 42, \$100
Doria Drost For House, \$100

7. Payment of late filing fee for 2020 year-end report of receipts and expenditures

67th Senate District DFL, \$500

8. Payment of late filing fee for 2020 pre-general 24-hour notice

OutFront Minnesota Action, \$250
IBEW Minnesota State Council PAC, \$250
Carpenters Local 322, \$250

9. Payment of late filing fee for September 2020 report of receipts and expenditures

Minneapolis Regional Labor Federation, \$25

10. Payment of late filing fee for 2020 pre-primary 24-hour notice

Minnesota Seasonal Recreational Property Owners PAC, \$250
Minneapolis Regional Labor Federation, \$250

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

Minneapolis DFL Committee, \$1,000

12. Payment of late filing fee for lobbyist disbursement report due 6/15/2021

Thomas Freeman, \$175
Emily Nachtigal, \$175
Jeff Forester, \$25
Laura LaCroix-Dalluhn, \$25

13. Payment of late filing fee for lobbyist disbursement report due 6/15/2020

Jeff Forester, \$100

14. Forwarded anonymous contributions

Carver County RPM, \$200

Dear staff and directors of the Minnesota Campaign Finance Board,

My name is Marcus Harcus, and I am the founder of the Minnesota Campaign for Full Legalization (MN CFL), a nonprofit Cannabis legalization advocacy organization with the mission to organize a statewide grassroots movement to demand full legalization from the Minnesota state legislature. With this organization, I have produced model legislation, wrote a full legalization bill that was introduced in 2019, published a voter guide (my second), organized community forums throughout the state, practiced media advocacy, lobbied the entire state legislature, organized lobby days for legalization supporters, testified in committee hearings, etc. This tireless and mostly thankless work with MN CFL, done in the name of gaining personal freedom, increasing public safety, improving public health, creating economic development statewide and advancing social justice and racial equity, has been unpaid. While I am a decent advocate, I failed to be a decent fundraiser. Initially, I spent more of my own money than I raised, sacrificing more than I could afford and doing the work voluntarily.

I am writing to request a waiver of the fines against me for filing several late reports. While I did good work that I am proud of, operating without money took a toll on me during the most difficult period of my life. Five years ago, my soon to be ex-wife and I separated. For a relatively short period of time, my children were living out of state and aside from sleepovers I have not lived with them fulltime since. As a man who wanted to be a husband and father since my youth more than anything, because I value family above all things in life, this relative loss of my family broke me. To be clear, I never really lost my children because I am devotedly involved in their lives every day and have wonderful bonds with them, but not being able to live with them and enduring a trying relationship with their mother has been devastating to my overall quality of life. My family moved back into our family home in March of 2020, and I moved out during the pandemic, and I have rented rooms from a couple of friends since then. I am currently in the middle of a divorce and trying to rebuild my life, but it has been a long difficult road to trod, and I am still working on getting unstuck from a deep depression that has contributed to my failing in many parts of my life including the maintenance of my overall health. I have also been in three car accidents the past three years which has further diminished my physical health. I hate sharing the most painful experience of my life with strangers, but this is my explanation for my report filing failures.

My negligence in filing the campaign finance reports that resulted in the severe fines levied against me was unintentional and regrettable. I humbly apologize for failing to file the reports in a timely manner, and I would be remiss if I did not acknowledge my sincere gratitude for the truly kind and gracious assistance that I received from Megan Engelhardt to submit them after I reached out to the office expressing that I was overwhelmed and needed help. I have terminated my lobbyist registration and plan to dissolve the Minnesota Campaign for Full Legalization (MN CFL), but that is not legally possible until I resolve unpaid debts, which I am solely responsible for. The bank account for the organization has \$1,000 in it, which I have not touched for a long time, probably well over a year. I ask for the mercy of the board and propose that the \$10,000+ dollar fine be reduced to \$1,000, which is the only money I have available in the world to make amends as I cannot afford the expensive cost of living and am drowning in debt. Please allow me to stand before the board to make this appeal beyond writing.

Thanks for your attention and consideration.

Sincerely,

Marcus Harcus

To: Whom it may Concern,

July 23rd, 2021

This is in regards to the penalty fees that were occurred for filing a late economic statement to the campaign finance board. I am asking the board to please waiver all fees regarding this issue. There was no intent on my side to not file the document. I was not aware of the fact I did not file the economic documents until I was served papers a few weeks ago. I must admit I made an error when I did send over the documents in July of last year. I unfortunately uploaded the wrong attachment that was sent to the campaign finance board. I was not aware I did this and I never heard anything back from them regarding that it was incorrect. The day after I filed my candidacy, I had knee surgery that was delayed due to Covid, then I had unforeseen complications due to my surgery. So, in July when I sent my document over, I never imagined it was the incorrect one. The campaign finance board does do a courtesy phone call to alert candidates if any documents are due or if they have never received them.

Just as it was for many people in 2020 it was a very demanding year with unexpected things you didn't expect to happen that happened. After my surgery I had to relocate to a new residence due to my lease expiring in the middle of August. It took about 5 months to move into another location due to the housing market. While dealing with the crazy house market of 2020, at the end of July I was terminated from my employment just 3 days after my release back to my job with restrictions from my surgeon. From August until the spring of this year I had gotten and infection that lasted about 10 weeks. I was on about 3 different antibiotics to treat whatever infection I had.

If I knew what the year of 2020 was in store for me, I would never had filed for candidacy at that time, but hindsight is 20/20. We don't expect things to happen to us or things to go wrong. I am asking the board again to please waiver all fees regarding the delayed submittance of the economic statement. It was not due to an intentional act. I never gotten any notices even though my mail was forwarded to my new address. Even when I terminated my candidacy in February, they called me to make sure I sent in the final documents. They never mentioned at that time I had any missing paperwork. I do hope you take in consideration of my request.

Thank You,

Jenny Rhoades

From: [Jenny Rhoades](#)
To: [CFBEmail](#)
Subject: Report 18681
Date: Monday, July 27, 2020 9:16:28 PM
Attachments: [ER7-27.png](#)

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MINNESOTA

CAMPAIGN FINANCE BOARD

July 7, 2020

Jenny Rhoades
5800 American Blvd W #302
Bloomington, MN, 55437

Jenny Rhoades,

The Campaign Finance and Public Disclosure Board records indicate that you filed an affidavit of candidacy for Senate on June 1, 2020. Minnesota Statutes section 10A.09 requires you to submit to the Board a statement of economic interest within 14 days of filing the affidavit of candidacy.

As of the date of this letter the Board has not received the required statement of economic interest.

Because the statement was not received or postmarked by the due date, a late fee of \$5 per day began to accrue on June 30, 2020. If the statement has not been filed by the time the maximum \$100 late fee has accrued, a civil penalty of \$1,000 also may be imposed.

A blank statement of economic interest is enclosed with this letter. Please complete and return it to the Board as soon as possible by email, fax, or US Mail. The Board's fax number, email, and mailing address are in the Instruction section of the form.

If you have any questions on completing your statement, please contact me at 651-539-1183 or 800-657-3889 or by email at jodi.pope@state.mn.us.

Sincerely,

A handwritten signature in black ink that reads "Jodi Pope".

Jodi Pope
Legal/Management Analyst



MINNESOTA CAMPAIGN FINANCE BOARD

July 30, 2020

Jenny Rhoades
5800 American Blvd W #302
Bloomington, MN, 55437

CERTIFIED AND FIRST CLASS MAIL

7016 3010 0000 1283 4103

Re: Candidate statement of economic interest due June 15, 2020

Jenny Rhoades

You have failed to file with the Board your candidate statement of economic interest. This filing is a statutory requirement of all candidates for state-level office. You must file this statement even if you do not register a committee with the Board or actively campaign for office.

To date you have accrued the statutory maximum \$100 late filing fee due to your failure to file the candidate statement. If you do not file the statement by the end of the day on August 10, 2020, a civil penalty of \$1,000 will be imposed on August 11, 2020.

Please complete the enclosed form and return it, along with a check for \$100 payable to the State of Minnesota, to the Board at the address listed below by the end of the day on August 10, 2020. Under Minnesota Statutes, all fees are deposited in the general fund of the state. Failure to submit the statement and to pay the amount owed may result in referral to the Office of the Minnesota Attorney General to begin legal efforts to obtain the statement and/or to the Minnesota Department of Revenue to begin the collection process.

The Board may reduce or waive late filing fees upon written request for good cause. A waiver request should explain in detail the reasons why the Board should waive or reduce the late filing fees. You may mail or email the request to either of the addresses provided below. The waiver request will be public information and will be reviewed by the Board at the next scheduled meeting after the request is received.

If you have any questions about filing your statement or the assessment of late filing fees, please contact me at 651-539-1183, 800-657-3889, or jodi.pope@state.mn.us.

Sincerely,

Jodi Pope
Legal/Management Analyst

Enclosure

From: Pope, Jodi (CFB)
To: "[Jenny Rhoades@yahoo.com](mailto:Jenny_Rhoades@yahoo.com)"
Subject: Overdue statement of economic interest
Date: Friday, August 21, 2020 11:29:00 AM
Attachments: [Rhodes AG referral.pdf](#)

Attached is a letter being sent to you today regarding your overdue statement of economic interest for candidates.

Here is a link to the candidate statement that you need to file:

https://cfb.mn.gov/pdf/forms/public_officials/eis_candidates.pdf

Please let me know if you have any questions.

Jodi Pope
Legal/Management Analyst
Minnesota Campaign Finance and Public Disclosure Board
651-539-1183



MINNESOTA

CAMPAIGN FINANCE BOARD

August 21, 2020

Jenny Rhoades
5800 American Blvd W #302
Bloomington, MN, 55437

By US mail and email to
jenny_rhoades@yahoo.com

Re: Candidate statement of economic interest due June 15, 2020

Jenny Rhoades

You have failed to file with the Board your candidate statement of economic interest. This filing is a statutory requirement of all candidates for state-level office. You must file this statement even if you are not required to register a committee with the Campaign Finance Board, do not actively campaign for office, or lost the primary election.

To date you have accrued the statutory maximum \$100 late filing fee and the maximum \$1,000 civil penalty due to your failure to file the candidate statement. If you do not file the statement and pay the \$1,100 by the end of the day on August 31, 2020, the Board will consider referring the matter to the Minnesota Attorney General's Office for litigation to obtain the statement and the amounts owed. The Board will consider this matter at its September 9, 2020, meeting, which is open to the public.

Please complete the enclosed form and return it, along with a check for \$1,100 payable to the State of Minnesota, to the Board at the address listed below by the end of the day on August 31, 2020. Under Minnesota Statutes, all fees are deposited in the general fund of the state. Failure to submit the statement and to pay the amount owed may also result in referral to the Minnesota Department of Revenue to begin the collection process.

The Board may reduce or waive late filing fees upon written request for good cause. A waiver request should explain in detail the reasons why the Board should waive or reduce the late filing fees. You may mail or email the request to either of the addresses provided below. The waiver request will be public information and will be reviewed by the Board at the next scheduled meeting after the request is received.

If you have any questions about filing your statement or the assessment of late filing fees, please contact me at 651-539-1183, 800-657-3889, or jodi.pope@state.mn.us.

Sincerely,

A handwritten signature in black ink that reads "Jodi Pope". The signature is written in a cursive, flowing style.

Jodi Pope
Legal/Management Analyst

Enclosure

From: [Jenny Rhoades](#)
To: [Olson, Andrew \(CFB\)](#)
Subject: RE: Request to the Board
Date: Tuesday, August 03, 2021 10:39:24 AM

Andrew yes please, I will pull up my phone records of the two days they helped me via phone. I also have copies of the submitted documents that I uploaded to the software.

Thank You,
Jenny Rhoades

[Sent from Yahoo Mail on Android](#)

On Tue, Aug 3, 2021 at 10:22 AM, Olson, Andrew (CFB) <Andrew.D.Olson@state.mn.us> wrote:

Hello Ms. Rhoades,

The original 2017 year-end report was not filed via the Campaign Finance Reporter (CFR) software. The report was due on January 31, 2018, and was received one day late on February 1, 2018, resulting in a late filing fee of \$25. I have attached a copy for your reference.

The 2018 1st quarter report, which was due on April 16, 2018, was filed on time via the CFR software. I have attached a copy for your reference.

The report that we are considering to be your committee's original 2018 year-end report was filed via the CFR software on March 4, 2019, which is slightly more than one month after the report was due on January 31, 2019, resulting in a late filing fee of \$525. I have attached a copy for your reference. After I spoke with you on the phone on January 31, 2020, we reviewed our records to see if we had any record of receiving a report from you covering any portion of 2018 aside from the period covered by the 2018 1st quarter report. As I explained in an email that I sent you on February 21, 2020, we do not have any record of receiving a such a report other than the report filed on March 4, 2019. I don't doubt that you attempted to complete a termination report via the CFR software, but we did not receive a report until March 4, 2019.

Regardless, please confirm whether you are asking the Board to waive the \$550 in late filing fees owed for your now-terminated gubernatorial committee. If that is the case, the Board will consider the information you have provided in evaluating your request.

Respectfully,

Andrew Olson

From: Jenny Rhoades <jenny_rhoades@yahoo.com>

Sent: Tuesday, August 03, 2021 9:24 AM

To: Olson, Andrew (CFB) <Andrew.D.Olson@state.mn.us>; Olson, Andrew (CFB) <Andrew.D.Olson@state.mn.us>

Subject: RE: Request to the Board

Andrew,

In reference to the filing for governor being late. It was made ontime but it did not get transferred on your software. I had talked with two people regarding this two years ago and they stated it was received. They are the ones that walked me through it when I was on the computer. Also if I remember correctly I allowed you to have control of my computer at that time to help me with the software issues.

Thank You,

Jenny Rhoades

[Sent from Yahoo Mail on Android](#)

On Tue, Aug 3, 2021 at 8:52 AM, Olson, Andrew (CFB)

[<Andrew.D.Olson@state.mn.us>](mailto:Andrew.D.Olson@state.mn.us) wrote:

Hello Ms. Rhoades,

Thank you for sending us a request to waive the \$100 late filing fee and \$1,000 civil penalty for your statement of economic interest that was due on June 15, 2020. Your request will be considered by the Board at its next meeting on September 1, 2021. While not required, if you wish you may appear before the Board in person during that meeting to explain your request and answer any questions. The exact location of the meeting has yet to be confirmed but it will most likely be held in the [Minnesota Judicial Center](#). If you plan to appear before the Board, please let me know.

In addition to the amount owed for your statement of economic interest, a total of \$550 in late filing fees remains owed for the Jenny Rhoades for Governor committee ([18141](#)). That amount includes a \$25 late filing fee for the committee's 2017 year-end report, which was filed one day late, and a \$525 late filing fee for the committee's 2018 year-end report. We considered the report filed March 4, 2019, to be your committee's 2018 year-end report, even though it only covered the period through May 31, 2018. By doing so, the late filing fee for that report is \$525, rather than \$1,000. The late filing fee for a year-end report accrues at the rate of \$25 per day and the 2018 year-end report was due January 31, 2019. The report filed March 4, 2019, was filed 21 business days after the due date, making the late filing fee \$525. Please let me know if you are asking the Board to waive the \$550 in late filing fees owed for your now-terminated gubernatorial committee, so that both requests may be considered at the same meeting.

Please feel free to contact me with any questions or concerns.

Respectfully,

Andrew Olson
Legal/Management Analyst
Minnesota Campaign Finance and Public Disclosure Board
651-539-1190

From: Jenny Rhoades <jenny_rhoades@yahoo.com>
Sent: Monday, July 26, 2021 9:08 AM
To: Pope, Jodi (CFB) <jodi.pope@state.mn.us>
Cc: Nathan Hartshorn <nathan.hartshorn@ag.state.mn.us>
Subject: Request to the Board

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August 13, 2021

Megan Engelhardt
Minnesota Campaign Finance Board
190 Centennial Office Building
658 Cedar St.
St. Paul, MN 55155

***RE: Report of Receipts and Expenditures due on September 22, 2020; October 26, 2020, and February 01, 2021.
Reg. No.: 80017***

Dear Ms. Engelhardt and the Campaign Finance Board:

I am reaching out to you on behalf of the Minnesota Medical Group Management Association (MMGMA) Political Fund. We received your letter dated July 12, 2021 regarding the late filing of the "Report of Receipts and Expenditures". I would like to first and foremost apologize that reports were filed late and take accountability. The information was entered into the Reporter Software on September 22, October 26, 2020, and February 1, 2021. We thought we hit send but the reports failed to upload. It is our hope that the back-end website/software might be able to verify that the information was indeed entered into the system.

I was unaware any of this had occurred until receipt of the July letter that mentioned the September filing. At that point, the report was immediately submitted. Unfortunately, I do not show receipt of any notifications prior to the July letter. If anything else has been sent through US mail, it did not get directed to me. This is likely due to the office being shut down due to COVID and because most people are still working remotely. Once we received the letter and again submitted the information into the Reporter Software we reached out to the Board to make sure our information was received and it was only then that we were made aware of the two additional fines.

I appreciate the ability to request a waiver of the \$3,000 late filing fees and I respectfully request consideration of such a waiver (or reduction of fee) at your upcoming meeting. These mistakes were inadvertent and were the first mistakes made by the fund after more than 15 years of filing. MMGMA's Political Fund is small and run by volunteers who are comprised of management and administrators of independent medical practices. These groups have been hit particularly hard through COVID and have worked diligently to make it through the difficult time. Payment of a \$3,000 fine would completely wipe out our fund, and result in our members being disenchanted and no longer interested in participation.

Finally, I would like to assure the Campaign Finance Board that we are making changes to our internal procedures to help ensure that this does not happen in the future. We understand the importance of timely filing and transparency.

I thank you for your time and consideration of this request. Please do not hesitate to reach out to me if there any questions on this issue.

Kind regards,

A handwritten signature in cursive script that reads "Sandy Rutherford".

Sandy Rutherford
sjrutherford@khsinc.net
952-200-0406

MMGMA PAC
525 Park St. Ste. 130
Saint Paul, MN 55103

From: Rob Vanasek <rob@capitolhillassoc.com>
Sent: Monday, July 26, 2021 11:23 AM
To: Engelhardt, Megan (CFB) <megan.engelhardt@state.mn.us>
Subject: Request to consider waiving or reducing late filing fees

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To the Minnesota Campaign Finance Board,

I write regarding my Lobbyist Disbursement reports due on 6/15/21, which I failed to submit on time and was not able to get in until the next day, 6/16/21.

I apologize.

I am always motivated to get these reports in on time as I believe they are able to provide important data to the public on sizable spending on media campaigns, lobbying, etc., but my submissions were a day late due to a couple of factors.

The primary factor is that an unexpected, untimely client project landed on my desk, unrelated to any legislative work, and ended up being rather intense and time consuming for several days before and shortly after the 15th of June. Of course, a secondary, compounding factor was the special session that started up and overlapped the same timeframe.

I don't believe I've asked the board for the waiving of any late fees before. The numerous individual late fees add up to a significant penalty that I hope would be waived or reduced in this instance and I will work to ensure the timely filing of my disbursement reports in the future. Thank you for your consideration of this request.

Thank you.

Rob Vanasek

Minnesota Campaign Finance and Public Disclosure Board
190 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

July 26th, 2021

Dear Campaign Finance and Public Disclosure Board,

We write to humbly request a waiver of the \$250.00 late filing fee for our 2020 Lobbyist Principal Report.

To provide context and explanation for this year's late filing: we had a few employee departures who previously managed this process, and when transferred to a new employee this year, there was not clarity for what exactly needed to be done. In transparency, there was a misunderstanding that no report was due to be filed if the previous year's spending on lobbying was \$0.00. Additionally, because the entirety of our team has been working remotely for over a year, the paper letter that was mailed to the YWCA office notifying us of the additional late filing fees detailed below was not seen until some weeks later. We are committed to accurate and on-time reporting and we were sure to file quickly upon receiving notice.

We want to recognize to the board that our organization has unfortunately had a history of late filing fees. With the exception of the 2020 late filing fee, all of these took place prior to new leadership of the Racial Justice and Public Policy Team at YWCA Minneapolis (beginning September 2020). The amended balance for these previous fees (in the amount of \$500.00) was not known to us until this spring. This amount has been paid in full. We recognize that a history of late filing fees (including unpaid late filing fees) makes this waiver request perhaps less appealing, but we wanted to be transparent about the staff turnover and the completion of payment before requesting a waiver for our 2020 late filing fee as well as ensure timely future filing and payments.

We offer our apology for the 2020 Lobbyist Principal Report late filing, as we know the follow up from your team requires ample administrative time and resources. We greatly appreciate your consideration of this request, and all of the work you do to keep campaign finance in Minnesota compliant and ethical.

With all best,

Angela Myles

Vice President, Racial Justice, YWCA Minneapolis

Luna Allen-Bakerian

Race Equity & Public Policy Strategist, YWCA Minneapolis

**eliminating racism
empowering women**
ywca
Minneapolis

Downtown
1130 Nicollet Mall
Minneapolis, MN 55403
612-332-0501

Midtown
2121 East Lake Street
Minneapolis, MN 55408
612-215-4333

Uptown
2808 Hennepin Avenue South
Minneapolis, MN 55408
612-874-7131

North Commons Park
1801 James Avenue North
Minneapolis, MN 55411
612-522-6559

**Children's Center at
Abbott Northwestern Hospital**
800 East 28th Street #15103
Minneapolis, MN 55407
612-863-0971

**Children's Center
at Ecolab**
80 West 7th Street
St. Paul, MN 55102
651-250-3540

**Children's Center at Hubbs
Center for Lifelong Learning**
1030 University Avenue
St. Paul, MN 55104
651-744-7525

ywcamps.org

**YWCA IS ON
A MISSION**



MINNESOTA CAMPAIGN FINANCE BOARD

Date: August 25, 2021

To: Board members

From: Andrew Olson, Legal/Management Analyst

Telephone: 651-539-1190

Re: Americans for Prosperity Foundation v. Bonta, [141 S.Ct. 2373](#) (2021)

California's Requirement that 501(c)(3) Organizations Provide List of Large Donors

Most 501(c) organizations are required to file Form 990 and its accompanying schedules¹ annually with the Internal Revenue Service (IRS). Those that receive contributions totaling at least \$5,000 from a single contributor typically must file Schedule B.² That schedule generally consists of a list with the name and address of, and amount contributed by, each person that contributed at least \$5,000. However, an organization that satisfies the IRS's 1/3 public support test³ is only required to include each contributor who gave more than \$5,000 and whose contributions comprised more than 2% of the organization's total contributions.

California required charitable organizations that solicit contributions in California to register with the state attorney general⁴ and generally required them to annually file with the state a copy of the Form 990 they filed with the IRS, including Schedule B.⁵ The Schedule Bs filed by each charitable organization were generally shielded from public disclosure pursuant to an internal policy of California's Office of the Attorney General and that policy was codified as a regulation in 2016.⁶ Some 501(c)(3) organizations declined to provide their Schedule Bs, withheld certain pages, or redacted them to exclude donor names and addresses and that practice continued without enforcement action being taken for a decade.⁷ Starting in 2010 California's Office of the

¹ irs.gov/forms-pubs/about-form-990

² irs.gov/pub/irs-pdf/f990ezb.pdf

³ Generally an organization satisfies the 1/3 public support test if at least 1/3 of the value of its contributions is comprised of contributions given by governmental units or public charities and contributions given by contributors who each gave less than 2% of the organization's total support.

⁴ See *Cal. Gov't Code § 12580 et seq.* and *Cal. Code Regs. tit. 11, § 300 et seq.*

⁵ *Cal. Code Regs. tit. 11, § 301.*

⁶ *Americans for Prosperity Found. v. Becerra and Thomas More Law Center v. Becerra, Combined Brief in Opposition to Petitions for Writs of Certiorari 4*; *Cal. Code Regs. tit. 11, § 310(b).*

⁷ *Ctr. for Competitive Politics v. Harris*, 784 F.3d 1307, 1311 (9th Cir. 2015), *cert. denied* 577 U.S. 975 (2015); *Americans for Prosperity Found. v. Harris*, 182 F. Supp. 3d 1049, 1052 (C.D. Cal. 2016), *rev'd* and *vacated sub nom. Americans for Prosperity Found. v. Becerra*, 903 F.3d 1000 (9th Cir. 2018).

Attorney General began demanding that 501(c)(3) organizations provide unredacted copies of their schedule Bs.⁸

Federal District Court and Ninth Circuit Court of Appeals Decisions

In March 2014 a 501(c)(3) organization, the Center for Competitive Politics (CCP), filed a lawsuit in federal court challenging on its face the requirement to provide an unredacted Schedule B, asserting that the requirement is preempted by federal law and violates the First Amendment's guarantee of freedom of association. In May 2014 a federal district court denied the CCP's motion for a preliminary injunction and a year later a Ninth Circuit Court of Appeals panel affirmed the district court.⁹ The Ninth Circuit Court of Appeals rejected the CCP's preemption argument and applied exacting (intermediate) scrutiny to the challenged regulation, concluding that the requirement is substantially related to a sufficiently important governmental interest. The Ninth Circuit Court of Appeals noted that the CCP failed to show any actual burden on its freedom of association and rejected the CCP's facial challenge, but left the door open to a future as-applied challenge if the CCP could demonstrate "a reasonable probability that the compelled disclosure of its contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties."¹⁰

In December 2014 and April 2015, two 501(c)(3) organizations, the Americans for Prosperity Foundation (AFPF) and the Thomas More Law Center (TMLC), filed separate lawsuits in federal court challenging the requirement both on its face and as applied to each plaintiff as violative of the guarantees of freedom of speech and association under the First Amendment. The district court granted preliminary injunctions barring California from demanding that the plaintiffs produce copies of their Schedule Bs during the pendency of their lawsuits. However, a Ninth Circuit Court of Appeals panel vacated those injunctions in December 2015.¹¹

After the Ninth Circuit Court of Appeals published its decision in the appeal brought by the CCP, the district court focused solely on the as-applied challenges brought by the AFPF and the TMLC and applied exacting (intermediate) scrutiny.¹² In April 2016, following a bench trial, the district court held that the requirement violated the AFPF's First Amendment rights and imposed a permanent injunction.¹³ The court reached the same conclusion and ordered the same relief with respect to the TMLC in November 2016.¹⁴ In doing so, the district court noted that

⁸ [Americans for Prosperity Found. v. Becerra and Thomas More Law Center v. Becerra, Combined Brief in Opposition to Petitions for Writs of Certiorari 4-5](#). The State of California explained this change by stating that prior to 2010, it lacked sufficient staff to address deficient filings.

⁹ [Ctr. for Competitive Politics v. Harris, 784 F.3d 1307, 1317 \(9th Cir. 2015\)](#), *cert. denied* 577 U.S. 975 (2015).

¹⁰ *Id.* at 1317 (quoting [McConnell v. Fed. Election Comm'n, 540 U.S. 93, 198 \(2010\)](#) and [Buckley v. Valeo, 424 U.S. 1, 74 \(1976\)](#)) (internal brackets omitted).

¹¹ [Americans for Prosperity Found. v. Harris, 809 F.3d 536, 538 \(9th Cir. 2015\)](#).

¹² The lawsuits were each assigned to U.S. District Court Judge Manuel Real. The Ninth Circuit Court of Appeals later held that while the district court stated it was applying exacting scrutiny, the tests applied were those utilized by courts applying strict scrutiny, which was not the appropriate level of scrutiny.

¹³ [Americans for Prosperity Found. v. Harris, 182 F. Supp. 3d 1049 \(C.D. Cal. 2016\)](#), *rev'd and vacated sub nom. Americans for Prosperity Found. v. Becerra, 903 F.3d 1000 (9th Cir. 2018).*

¹⁴ [Thomas More Law Ctr. v. Harris, No. 2:15-CV-03048, 2016 WL 6781090, at *7 \(C.D. Cal. 2016\)](#), *vacated sub nom. Americans for Prosperity Found. v. Becerra, 903 F.3d 1000 (9th Cir. 2018).*

California's Office of the Attorney General had a significant history of security lapses and Schedule Bs not being properly classified as confidential, increasing the likelihood "that compelled disclosure of Schedule B would chill Plaintiff's First Amendment rights."¹⁵

The Ninth Circuit Court of Appeals consolidated the two cases for purposes of appeal and reversed the district court in September 2018.¹⁶ The court held that requiring the filing of unredacted Schedule Bs furthered the state's interests of preventing fraud and self-dealing by charitable organizations. This holding mirrors that of the Second Circuit Court of Appeals in 2018, which upheld a similar requirement imposed by New York.¹⁷ The court held that the plaintiffs failed to show that the requirement will have more than a modest impact on contributions. The court stated that "[a]lthough there may be a small group of contributors who are comfortable with disclosure to the IRS, but who would not be comfortable with disclosure to the Attorney General, the evidence does not show that this group exists or, if it does, its magnitude."¹⁸ This holding likewise mirrored that of the Second Circuit Court of Appeals. With respect to the possibility of donors facing reprisals, the court noted that changes had been implemented to prevent future inadvertent disclosures of Schedule Bs and that the risk of future inadvertent disclosures was small. Given that slight risk, the court held that the plaintiffs failed to demonstrate "a reasonable probability that the compelled disclosure of personal information will subject them to threats, harassment, or reprisals."¹⁹ The court therefore held that the AFPF and the TMLC failed to show that the requirement imposed a significant burden on their First Amendment rights.

In March 2019 the Ninth Circuit Court Appeals declined to rehear the cases en banc and five judges dissented from that decision.²⁰ The dissenting judges forcefully argued that the panel that reversed the district court ignored substantial evidence showing that the state failed to safeguard Schedule Bs from public disclosure and that individuals affiliated with the plaintiffs have been subjected to harassment and threats. The dissenting judges stated that when a plaintiff satisfies its burden showing the likelihood of threats of violence and reprisals, the appropriate level of scrutiny to be applied is heightened to require narrow tailoring of the means

¹⁵ *Id.* at *5. The court also stated that "given the history of the Registry completely violating the 'longstanding confidentiality policy,' the Attorney General's assurances that a regulatory codification of the same exact policy will prevent future inadvertent disclosures rings hollow. The Attorney General's steps to attempt to rectify the disclosures and prevent future disclosures is commendable. Yet, trial testimony supported what should be an obvious fact, the Registry cannot assure that documents will not be inadvertently disclosed no matter what steps it takes."

¹⁶ [Americans for Prosperity Found. v. Becerra](#), 903 F.3d 1000 (9th Cir. 2018).

¹⁷ [Citizens United v. Schneiderman](#), 882 F.3d 374 (2d Cir. 2018). New York similarly did not enforce its requirement for years, but began seeking to compel the filing of unredacted Schedule Bs in 2013, which would remain confidential pursuant to a regulation. The New York regulation upheld by the Second Circuit Court of Appeals in 2018 is separate from statutes New York enacted in 2016, requiring public disclosure of some donors to 501(c) organizations. Those statutes were invalidated as facially violative of the First Amendment by a federal district court in 2019, and similar statutes enacted in New Jersey were effectively invalidated pursuant to permanent injunctions entered in three separate federal district court cases in 2020.

¹⁸ *Americans for Prosperity Found.* at 1014.

¹⁹ *Id.* (quoting [John Doe No. 1 v. Reed](#), 561 U.S. 186, 200 (2010) and [Buckley v. Valeo](#), 424 U.S. 1, 74 (1976)).

²⁰ [Americans for Prosperity Found. v. Becerra](#), 919 F.3d 1177 (9th Cir. 2019) (Ikuta, S., dissenting).

employed by the state.²¹ The dissenting judges also concluded that the requirement was not substantially related to the state's asserted interest because "Schedule Bs are rarely used to detect fraud or to enhance enforcement efforts."²²

United States Supreme Court Decision

Both the AFPF and the TMLC sought further review, which was granted by the United States Supreme Court in January 2021.²³ In July 2021, the Court issued a 6-3 decision striking down California's Schedule B requirement on its face, with the majority concluding that the requirement burdens donors' First Amendment rights and is not narrowly tailored to an important government interest.²⁴

The justices split with respect to what level of scrutiny generally applies to disclosure requirements. Justice Thomas concurred in the judgment, but believed that the correct level of scrutiny was strict scrutiny.²⁵ Justices Alito and Gorsuch concurred in the judgment, but were not prepared to hold that either strict scrutiny or exacting scrutiny apply to all disclosure requirements.²⁶ They noted that the distinction was inconsequential because they concluded that California's Schedule B disclosure requirement failed either test.²⁷ The remaining three justices in the majority held that "[r]egardless of the type of association, compelled disclosure requirements are reviewed under exacting scrutiny."²⁸

The six justices in the majority each joined the portion of the Court's opinion holding that "[w]hile exacting scrutiny does not require that disclosure regimes be the least restrictive means of achieving their ends, it does require that they be narrowly tailored to the government's asserted interest."²⁹ The majority went on to state that a substantial relationship between the governmental interest and the means employed "is necessary but not sufficient to ensure that the government adequately considers the potential for First Amendment harms before requiring that organizations reveal sensitive information about their members and supporters. Where exacting scrutiny applies, the challenged requirement must be narrowly tailored to the interest it promotes, even if it is not the least restrictive means of achieving that end."³⁰ The majority also held that a facial challenge to a disclosure requirement need not include evidence "that donors to a substantial number of organizations will be subjected to harassment and reprisals," if the disclosure requirement is not narrowly tailored.³¹

Applying exacting scrutiny, the majority noted that while "California has an important interest in preventing wrongdoing by charitable organizations," "[t]here is a dramatic mismatch" between

²¹ *Id.* at 1179.

²² *Id.* at 1186.

²³ The Supreme Court docket numbers are [19-251](#) (AFPF v. Bonta) and [19-255](#) (TMLC v. Bonta).

²⁴ [Americans for Prosperity Found. v. Bonta](#), 141 S. Ct. 2373 (2021).

²⁵ *Id.* at 2390.

²⁶ *Id.* at 2391-92.

²⁷ *Id.* at 2392.

²⁸ *Id.* at 2383.

²⁹ *Id.*

³⁰ *Id.* at 2384.

³¹ *Id.* at 2388-89

that interest and the Schedule B disclosure requirement, because California did not cite “a single, concrete instance in which pre-investigation collection of a Schedule B did anything to advance the Attorney General's investigative, regulatory or enforcement efforts.”³² The majority went on to note that disclosure requirements can chill freedom of association even when there is no disclosure to the general public,³³ and ultimately concluded that California's Schedule B disclosure requirement was not narrowly tailored and was invalid on its face.

Potential Impact on Chapter 10A

Chapter 10A differs from California's Schedule B disclosure requirement in several significant respects. First and foremost, the purpose of requiring disclosure via the campaign finance, lobbyist, and economic interest programs is to ensure that the disclosed information is available to the general public. At least in the campaign finance context, the United States Supreme Court has long held that “disclosure requirements certainly in most applications appear to be the least restrictive means of curbing the evils of campaign ignorance and corruption . . .”³⁴ Second, the information disclosed pursuant to Chapter 10A is routinely used by the Board to enforce Chapter 10A and is used by journalists and the general public for a variety of purposes, including bringing possible violations of Chapter 10A to the attention of the Board. Those distinctions decrease the likelihood that the Court's decision will have a direct impact on Chapter 10A. However, the Court's clear articulation of a tailoring requirement applicable to disclosure requirements subject to exacting scrutiny may make it easier to challenge the constitutionality of disclosure requirements if those requirements are likely to chill speech or association.

³² *Id.* at 2385-86 (quoting [Americans for Prosperity Found. v. Harris](#), 182 F. Supp. 3d 1049, 1055 (C.D. Cal. 2016)).

³³ 141 S. Ct. at 2388.

³⁴ [Buckley v. Valeo](#), 424 U.S. 1, 68 (1976). See also [McCutcheon v. FEC](#), 572 U.S. 185 (2014) (stating that “disclosure often represents a less restrictive alternative to flat bans on certain types or quantities of speech.”).



MINNESOTA

CAMPAIGN FINANCE BOARD

Date: August 25, 2021

To: Board members

From: Andrew Olson, Legal/Management Analyst

Telephone: 651-539-1190

Re: Thompson v. Hebdon, [No. 17-35019](#), 2021 WL 3235775 (9th Cir. July 30, 2021)

Alaska's Individual Contribution Limit

Alaska prohibits individuals from giving contributions in excess of \$500 per calendar year to any particular state candidate or to any political group aside from political parties and independent expenditure and ballot question groups.¹ The limit is the same with respect to candidates for governor and lieutenant governor, state legislature, and judicial office. Individuals who wished to give contributions in excess of that limit filed a lawsuit asserting, in part, that the limit is so low that it violates the First Amendment by preventing candidates, particularly non-incumbents, from waging competitive campaigns. A federal district court upheld the \$500 limit² as did the Ninth Circuit Court of Appeals.³

United States Supreme Court Decision

In November 2019 the United States Supreme Court granted the plaintiffs' petition for further review. Rather than add the case to its docket, the Court ordered the Ninth Circuit Court of Appeals to reconsider its decision in light of *Randall v. Sorrell*.⁴ In *Randall* the United States Supreme Court invalidated Vermont's individual contribution limits as violative of the First Amendment.⁵ The Ninth Circuit panel felt that it wasn't bound by *Randall* because that case resulted in highly fractured opinions and only three justices joined the plurality opinion. However, in *Randall* six justices agreed that Vermont's contribution limits violated the First Amendment and five of them joined opinions that explicitly stated that part of the reason the contribution limits were constitutionally infirm is because the dollar amounts were simply too low under *Buckley v. Valeo*.

¹ Alaska Stat. § 15.13.070 (b).

² *Thompson v. Dauphinais*, 217 F. Supp. 3d 1023 (D. Alaska 2016).

³ *Thompson v. Hebdon*, 909 F.3d 1027 (9th Cir. 2018).

⁴ *Thompson v. Hebdon*, 140 S. Ct. 348 (2019).

⁵ *Randall v. Sorrell*, 548 U.S. 230 (2006).

Randall set forth five factors in determining whether Vermont’s contribution limits violated the First Amendment, including “(1) whether the limits would significantly restrict the amount of funding available for challengers to run competitive campaigns; (2) whether political parties must abide by the same low limits that apply to individual contributors; (3) whether volunteer services or expenses are considered contributions that would count toward the limit; (4) whether the limits are indexed for inflation; and (5) whether there is any ‘special justification’ that might warrant such low limits.”⁶ The individual contribution limits struck down in *Randall* applied to two-year cycles and were \$400 for statewide candidates, \$300 for state senate candidates, and \$200 for state representative candidates. The \$400 limit for statewide candidates, even if increased by 25% to account for inflation, is still effectively about half the size of Alaska’s \$500 limit because Alaska’s limit applies to each calendar year while Vermont’s limits applied to a two-year cycle.

Ninth Circuit Court of Appeals Decision on Remand

On remand a divided three-judge Ninth Circuit Court of Appeals panel struck down Alaska’s \$500 individual contribution limit, with the majority concluding that “the limit significantly restricts the amount of funds available to challengers to run competitively against incumbents, and the already-low limit is not indexed for inflation. Moreover, Alaska has not established a special justification for such a low limit.”⁷ The majority noted that one reason the limit favors incumbents is because it applies to each calendar year and “[c]hallengers tend to register to run in election years. Their tendency not to enter political races earlier is not necessarily conscious or negligent. Often it is just that they are not recruited to run until the year of the general election. It follows that challengers are often not registered as candidates and therefore cannot raise money in the off-years.”⁸ As did the United States Supreme Court, the majority of the Ninth Circuit panel also noted that “Alaska’s \$500 contribution limit is the same as it was 23 years ago, in 1996.”⁹

On August 20, 2021, the Ninth Circuit Court of Appeals issued an order stating that a judge has called for a vote to determine whether the case should be reheard by the entire Ninth Circuit Court of Appeals. The parties will now file briefs on the matter and the Ninth Circuit will then decide whether to reconsider the case *en banc*.

Potential Impact on Chapter 10A

There is no immediate impact on the validity of Chapter 10A’s contribution limits. However, some aspects of the majority’s opinion are notable in light of similarities and dissimilarities between Alaska’s individual contribution limit and Chapter 10A. First, the court noted that Alaska’s individual contribution limit is not indexed to inflation, which is one of the factors set forth in *Randall*. While Chapter 10A’s aggregate special source contribution limits are indexed

⁶ [Thompson v. Hebdon, No. 17-35019, 2021 WL 3235775, at *4 \(9th Cir. July 30, 2021\)](#) (summarizing *Randall*, 548 U.S. at 244-62 (2006)).

⁷ [Thompson v. Hebdon, No. 17-35019, 2021 WL 3235775, at *8.](#)

⁸ *Id.* at *5.

⁹ *Id.* at *7 (quoting [Thompson v. Hebdon, 140 S. Ct. at 351](#)).

to inflation,¹⁰ the individual contribution limits¹¹ and party unit and dissolving principal campaign committee aggregate contribution limits¹² are static. However, those limits were increased considerably in 2013.¹³

Second, Chapter 10A's individual contribution limit applies to two-year election cycle segments rather than each calendar year. Therefore, the issue of challengers potentially waiting until an election year to begin accepting contributions does not result in an effectively lower individual contribution limit.

Third, Alaska's \$500 individual contribution limit applies to all state candidates, including candidates for governor and lieutenant governor, whereas Chapter 10A establishes varying contribution limits depending on the office sought. During the two-year period leading up to a general election, the individual contribution limit is \$4,000 for candidates for governor and lieutenant governor, \$2,500 for candidates for attorney general, \$2,000 for candidates for secretary of state or state auditor, and \$1,000 for legislative candidates. Chapter 10A's individual contribution limits for statewide candidates are therefore significantly higher than Alaska's \$500 per calendar year limit.

¹⁰ [Minn. Stat. § 10A.27, subd. 11](#) (the aggregate special source limits are indexed to inflation because they are calculated as a percentage of the expenditure limits codified at [Minnesota Statutes section 10A.25, subdivision 2](#), which are indexed to the Consumer Price Index pursuant to [Minnesota Statutes section 10A.255, subdivision 1](#)).

¹¹ [Minn. Stat. § 10A.27, subd. 1](#).

¹² [Minn. Stat. § 10A.27, subd. 2](#).

¹³ [2013 Minnesota Laws Ch. 138, Sec. 44 \(S.F. 661\)](#).

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD
September 2021**

ACTIVE FILES

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Sandra (Sandi) Blaeser		2018 Public Official Statement of Economic Interest 2019 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP \$100 LFF and \$1,000 CP	9/11/20	6/3/21			Board removed hold and requested going forward 7/19/21
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 LFF \$1,000 CP \$50 LFF	3/6/18	8/10/18 1/8/21 2/18/21			Board removed hold and requested going forward 7/19/21
Alyssa Eichman	Swing Right PAC	Unfiled 2018 Year- End Report of Receipts and Expenditures Late Filing of 2018 Pre-General Report due 10/29/18; filed on 10/30/18	\$1,000 LFF \$1,000 CP \$50 LFF	10/5/20	2/23/21 3/6/21			

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Kelly Gunderson		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/23/20	2/25/21			Waiver considered by the Board at its July meeting, and the Board reduced the balance owed to \$600. The Board notified Gunderson on 7/29
Marcus Harcus	MN Campaign for Full Legalization	Original Statement of Economic Interest, due 6/16/20 Lobbyist Disbursement Report due 6/15/20 Lobbyist Disbursement Report due 1/15/20 Late Filing of Lobbyist Disbursement Report due 1/15/19; filed on 6/16/19 Late Filing of Lobbyist Disbursement Report due 6/15/18, filed on 6/27/18 Annual Lobbyist Principal Report, due 3/16/20	\$100 LFF \$1,000 CP \$1,000 LFF \$1,000 CP \$1,000 LFF \$1,000 CP \$1,000 LFF \$200 LFF \$1,000 LFF \$1,000 CP	10/5/20	4/27/21			Reports filed. Waiver request postposed to September meeting

