

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

.....
June 3, 2014

Room G-31

Minnesota Judicial Center

.....

MINUTES

The meeting was called to order by Chair Wiener.

Members present: Beck, Oliver, Peterson, Sande, Wiener

Others present: Goldsmith, Sigurdson, Fisher, Schons, Pope, staff; Hartshorn, counsel

MINUTES (April 1, 2014)

At the April 22, 2014, meeting, the Board approved the minutes for the April 1, 2014, meeting with a correction proposed by Member Sande. Member Sande's correction concerned the motion made at the April 1st meeting to reaffirm the Board's legislative agenda. The correction added language to the minutes showing that the motion also included the acceptance of the language in Senate File 2402.

Mr. Goldsmith stated that staff had reviewed the recording of the April 1, 2014, meeting and discovered that neither the Board's discussion nor the formal motion included taking a position on Senate File 2402.

After discussion, the following motion was made:

Member Peterson's motion:	To rescind the vote approving the April 1, 2014, minutes as corrected and to approve the April 1, 2014, minutes as originally drafted.
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Vote on motion:	Unanimously passed.
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MINUTES (April 22, 2014)

Member Sande's motion:	To approve the April 22, 2014, minutes.
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Vote on motion:	Unanimously passed
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CHAIR'S REPORT

Board member confirmations

Chair Wiener congratulated Members Sande and Oliver on their legislative confirmations. Chair Wiener reported that Member Stafsholt had resigned before a vote was taken on his confirmation.

Board meeting schedule

The next Board meeting is scheduled for Tuesday, July 8, 2014.

EXECUTIVE DIRECTOR TOPICS

Status of office operations

Mr. Goldsmith reported that during the last month, staff had been busy with training, presentations, and the legislative session. Mr. Goldsmith presented members with a chart showing the Board's actual and budgeted spending which is attached to and made a part of these minutes. The chart included an explanation of the items in each spending category.

Hiring new staff

Executive Director Goldsmith introduced members to Andrew Schons, who was hired to fill the full-time programs assistant position. Mr. Goldsmith said that although the Board has funding for a .5 FTE clerical position, he was looking at several options for completing this clerical work, including hiring student interns or temporary workers.

Reconciliation of board data

Assistant Director Sigurdson presented members with a memorandum on this topic that is attached to and made a part of these minutes. Mr. Sigurdson said that the unreconciled contributions for 2013 and 2014 had been added to the tracking sheet, creating a new overall total of unreconciled contributions of \$13,709,110. Mr. Sigurdson believed that the amount of 2013 unreconciled contributions would decrease significantly by the next meeting because the 2013 reconciliation was underway. Staff had sent letters requesting a review of reported contributions made or received to 234 political committees and funds and political party units and 125 candidate committees.

Mr. Sigurdson stated that although there had been little change in the amount of unreconciled contributions from prior years, he also expected those numbers to begin decreasing again as the new program assistant started work on the outstanding records.

Mr. Sigurdson then said that the searchable database of contributions made and received available on the Board's website had been programmed to contain only contributions that reconciled. A notice explaining that only reconciled records are in the database is prominently displayed at the top of each page. This approach of displaying only reconciled records was put

into place in December of 2013. Mr. Sigurdson said that staff now believed that an exception to this approach was needed to provide timely disclosure to the public of contributions that were being made in 2014.

Mr. Sigurdson explained that the 1st Quarter Report of Receipts and Expenditures was due on April 14, 2014, but that not all committees were required to file this report. The state central committees of political parties and the party units organized for the legislative caucuses (9 party units), all political committees (237 committees), and all political funds that had activity during the reporting period (177 filed a report) were required to report contributions made to candidates. However, only candidates running for a constitutional office or appellate judicial office (45 committees) were required to file the 1st Quarter Report. The first report from candidates for the House of Representatives is not due until July 28, 2014.

Mr. Sigurdson said that this mismatch of reporting periods created a reconciliation problem. Mr. Sigurdson said that there currently were 580 unreconciled contributions on the 2014 1st Quarter Reports. Of that number 442 were contributions to House candidates. Mr. Sigurdson stated that the discrepancy based on differing reporting periods would continue to grow because the committees and funds that filed the first quarter report also had a second report due on June 16, 2014. Mr. Sigurdson also said that if the unreconciled contribution data was not released on the website until the House candidates submitted their first report, the data would be available to the public for only 14 days before the primary election.

Mr. Sigurdson stated that to provide an accurate representation of what filers actually reported, the Executive Director had directed staff to display all 2014 contribution data, reconciled and unreconciled, on the Board's website. The web based searchable database will be modified to display a special message when 2014 is selected as a search criterion. The message will indicate that unlike contributions from other years the 2014 data contains records that do not reconcile.

Website Redevelopment

Mr. Goldsmith informed members that he was working with MN.IT Services on the contract for the design of the new website. Mr. Goldsmith said that he expected to have a contract in place by the July meeting and that design work should start soon. Mr. Goldsmith also reported that staff was preparing a request for proposals to develop online training materials.

Legislative report

Mr. Goldsmith stated that the legislature had passed the technical bill. Among other provisions, the bill requires the board to undertake rulemaking on investigation and audit procedures, to have seven days' notice before taking a vote on a matter, and to perform audits subject to available resources. Mr. Goldsmith reported that both the revisor and legislative counsel believed that the data privacy protection for information related to audits was generally applicable and should be moved from section 10A.09 to section 10A.02 next year.

Rulemaking

Mr. Goldsmith reported that the rulemaking committee had met twice in May and planned to meet twice more in June and to hold a public hearing. Mr. Goldsmith presented members with a draft of the proposed rules and a chart showing the new investigation process. Both documents are attached to and made a part of these minutes. Mr. Goldsmith also stated that progress had been made on the concept of informal reviews for reports.

Correspondence

Mr. Goldsmith reported that the Board had received a letter from Shane Hudella, president of Defending the Blue Line, expressing disappointment that the Board had not granted the group's request to waive a \$25 late fee given the group's charitable purpose. Members expressed admiration for the work done by Defending the Blue Line but noted that many groups registered with the Board have charitable purposes and that it would be improper for the Board to apply Chapter 10A differently based solely on a group's purpose.

ENFORCEMENT REPORT

Discussion Items

Board action to ratify the Executive Director's resolution of outstanding obligations by Phil Ratte.

Mr. Goldsmith stated that at the end of April, he received communications from an individual who was helping Phil Ratte secure a mortgage on his home. Mr. Ratte is well-known to the Board, having been a candidate in 2002. Thereafter, Mr. Ratte was consistently late filing reports. His registration was administratively terminated in 2006.

Mr. Goldsmith said that the Board had previously obtained payment for two judgments against Mr. Ratte, but still had a judgment in the amount of \$1,173.00. In addition, other late filing fees and civil penalties that had not been reduced to judgment were outstanding.

Mr. Goldsmith reported that under current practice, the Board would have stopped sending reports to Mr. Ratte and would have administratively terminated his registration sooner than it did. As a result, the outstanding late filing fees and civil penalties would not include as many years.

Mr. Goldsmith stated that Mr. Ratte's agent had offered \$600 in settlement of the judgment and all outstanding late filing fees and civil penalties. Mr. Goldsmith said that Chair Wiener was out of the country, so he consulted with Vice Chair Beck who agreed that the Board should accept the settlement. Mr. Goldsmith stated that on behalf of the Board, he accepted the settlement, which has now been paid.

Mr. Goldsmith said that because it was not entirely clear that the Executive Director had the authority to bind the Board to the settlement of a judgment, he asked that the Board ratify this action.

After discussion, the following motion was made:

Member Sande's motion: To adopt the following resolution:

Resolved,

That the Campaign Finance and Public Disclosure Board hereby ratifies and confirms the actions of its Executive Director in compromising and settling the outstanding judgment in favor of the Board and against Phil Ratte and all other outstanding late filing fees and civil penalties to date for payment by Mr. Ratte of six hundred dollars. The Executive Director is authorized and directed to enter into a satisfaction of judgment and such other documents as are necessary to achieve this settlement.

Vote on motion: Unanimously passed.

Waiver Requests

<u>Name of Candidate or Committee</u>	<u>Reason for Fine</u>	<u>Late Fee Amount</u>	<u>Civil Penalty Amount</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Terry Morrow	1/31/14 Rec & Exp	\$275	\$0	Mr. Morrow is a former representative who now works in Chicago. He was waiting for vendor refunds before filing the report and was in Chicago when the refunds came in. The committee filed a termination report 5/19/2014.	Oliver	To waive the late fee.	Unanimous
Friends of Daniel Lipp	1/31/14 Rec & Exp	\$225	\$0	The committee filed a termination report.	Oliver	To waive the late fee.	Unanimous
St Paul Fire Fighters Local 21	1/31/14 Year-end	\$50	\$0	The previous treasurer attempted to upload the report on Jan 31, but after the deadline staff discovered it was not a useable file. The report was successfully uploaded on Feb 4.	Oliver	To waive the late fee.	Unanimous
Leech Lake PAC	4/14/2014 1 st Qtr	\$450	\$0	The employee who assisted in filing the committee reports passed away in March 2014.	Oliver	To waive the late fee.	Unanimous
MOHPA PAC (Minn Oncology)	4/14/2014 1 st Qtr	\$100	\$0	The committee upgraded to Windows 7 and had trouble uploading and downloading to and from the Board's server. The treasurer loaded the software onto a different computer and will use his personal internet connection to transfer reports.	Oliver	To waive the late fee.	Unanimous
Minn Electrical Assoc	4/14/2014 1 st Qtr	\$150	\$0	The treasurer had trouble creating the 1 st Qtr report due to conflicting 2014 dates that were entered into the 2013 file.	Oliver	To waive the late fee.	Unanimous

Silent Power	3/17/14 Principal	\$350	\$0	Silent Power has gone out of business.	Oliver	To waive the late fee.	Unanimous
Minn Service Station Assoc	4/14/2014 1 st Qtr	\$100	\$0	The committee was contacted to correct a beginning balance from a prior report. A staff person assisting the new treasurer with the reports was unfamiliar with the software. The 2012 and 2013 reports were amended to get the accurate balance. An attempt to upload the report was made on April 15.	Sande	To waive the late fee.	Unanimous
New Americans	1/31/14 Rec & Exp	\$825	\$0	The committee registered in July 2012 and the 2012 reports were filed on time except for 9/25/12 report was 1 day late. A new treas was appointed in July 2013 but resigned in Feb 2014. The chair filed the report on Mar 20. The 1 st Qtr 2014 report was filed on time.	Sande	To waive the late fee.	Unanimous
College of St Scholastica	3/17/14 Principal	\$175	\$0	This association was not considered a principal in prior years. 2013 was the first year they reported.	Sande	To waive the late fee.	Unanimous
Allstate Insurance	3/17/14 Principal	\$75	\$0	The person who prepares the report did not have all the information to report until after the due date.	No motion.		
Continental Decatur LLC	3/17/14 Principal	\$75	\$0	The company experienced staff turnover at the time the report was due.	No motion.		
Geronimo Wind Energy	3/17/14 Principal	\$275	\$0	The notice of the requirement to file was mailed to Blake Nixon at the current address. Contact from staff was made on 3/21 and the report was filed on 4/1.	No motion.		
Magellan Midstream Partners	3/17/14 Principal	\$75	\$0	The contact person was travelling when the report was due. It was filed 3 days late.	No motion.		
Persels & Assoc	3/17/14 Principal	\$300	\$0	The lobbyist's reports for 2013 disclose \$180 in disbursements. The lobbyist terminated 12/31/13.	No motion.		
Northstar Problem Gambling Alliance	3/17/14 Principal	\$200	\$0	Various administrative reasons why the report was late.	No motion.		
Professional Home Care Coalition	3/17/14 Principal	\$125	\$0	The notice of the required filing was sent to the contact person listed on the lobbyist registration form at the current address.	No motion.		
MN Vacation Rental Assn	3/17/14 Lobbyist Principal	\$100	\$0	The notice was sent to the PO Box indicated on the lobbyist registration form received in Feb 2011. All lobbyists have terminated as of 12/31/13.	No motion.		

Derrick Lehrke for House	1/31/14 Rec & Exp	\$125	\$0	The candidate states variety of reasons the report was late.	No motion.		
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Informational Items

A. Payment of a late filing fee for January 31, 2014, Report of Receipts and Expenditures 2013:

Boals (Justin) Campaign, \$50
 Jeffrey Guinness for House, \$25
 Mark Olson Volunteer Committee, \$150
 MNAES PAC, \$25
 Stonewall DFL, \$100

B. Payment of a late filing fee April 14, 2014, Report of Receipts and Expenditures:

Burnsville Chamber PAC, \$50
 Minn Gun Owners PAC, \$150

C. Payment of a \$100 late filing fee, \$427 civil penalty, \$73 service of process fee for January 31, 2005, 2004 year-end report (judgment):

Phil Ratte for State Rep, \$600

D. Payment of a late filing fee for March 17, 2014, Annual Report of Lobbyist Principal 2013:

A Chance to Grow, \$100
 AdvancEd, \$75
 AIG Inc, \$75
 Americans United for Separation of Church and State, \$75
 Arctic Cat Inc, \$100
 Artspace Projects, \$75
 Association of MN Building Officials, \$125
 Buffalo Red River Watershed District, \$75
 Clear Corps USA, \$25
 Defending the Blue Line, \$25
 Delta Dental of MN, \$25
 Elk Farm LLC, \$325
 Fresh Energy, \$200
 Goodwill/Easter Seals, \$125
 Gun Owners Civil Rights, \$25
 Hammes Co, \$50
 High Prairie Pipeline LLC, \$75
 Hennepin County Sheriff's Office, \$50
 Injury Help Coalition, \$275
 Invest In Outcomes, \$100
 Jobs Now Coalition, \$375

Johnson Controls, \$175
Karen Organization of MN, \$75
Kicks Liquor Store Inc, \$100
Literacy Action Network, \$75
Minnesotans for Safe Fireworks, \$50
MN Broadcasters Assn, \$100
MN Coalition of Social Workers, \$25
MN Dak Farmers, \$100
MN Joint Underwriting Assn, \$200
MN Organization of Leaders in Nursing, \$125
MN Precision Manufacturing Assn, \$200
MN Professional Fire Fighters, \$150
MN Safety Council, \$200
MN Transmission Owners, \$125
MN Trout Unlimited, \$100
MN Wine and Spirits Group, \$25
Natl Electrical Manufacturers Assn, \$25
Pavement Coatings Technologies, \$100
Salvation Army, \$75
Sodexo, \$200
Strata Corporation, \$25
Suma MRI PA, \$125
Surgical Care Affiliates, \$150
TracFone Wireless, \$50
Twin City Pipe Trades Services, \$100
United Technologies Corp, \$50
U S Again, LLC, \$275
Webber Camden Market, \$25
Wellpoint Inc, \$100

E. Payment of a late filing fee for January 15, 2014, lobbyist disbursement report:

John Herman, Unimin, \$425
Kelsey Johnson, Grocery Manufacturers Association, \$25

F. Payment of a civil penalty for exceeding the party unit aggregate contribution limit:

Committee to Elect John Ward, \$275. During 2012, the Committee accepted aggregate contributions from party units and terminating principal campaign committees in the amount of \$5,275. This amount exceeds the \$5,000 election year limit on contributions from party units and terminating principal campaign committees, set out in Minnesota Statutes section 10A.27, subdivision 2, by \$275. Representative Ward entered into a conciliation agreement on April 6, 2014.

G. Payment of a civil penalty for a contribution from a corporation:

Harbor Times Inc., \$25

H. Return of Public Subsidy:

Green Party of Minnesota, \$58.10

LEGAL COUNSEL'S REPORT

Mr. Goldsmith said that a temporary injunction had been issued in Seaton v. Wiener that enjoined the Board from enforcing the large donor component of the special source limit. Mr. Goldsmith reported that staff had published information about the injunction and its effect on the Board website and had sent notice to registered entities by email. Staff also modified the Campaign Finance Reporter software and Board publications to reflect the injunction. In response to questions from members, Mr. Goldsmith stated that he did not believe that the injunction would have much effect on house candidates because the individual contribution limit for those races was only \$1,000 but that the impact could be greater for the constitutional offices, particularly the governor's race.

EXECUTIVE SESSION

The Chair recessed the regular session of the meeting and called to order the executive session. Upon completion of the executive session, the regular session of the meeting was called back to order and the following items were reported from the executive session:

Findings and Order in the Matter of the Complaint of Pat Shortridge regarding the Minnesota DFL and the Democratic Legislative Campaign Committee (DLCC)


Findings and Order in the Matter of the Complaint of Mark Jacobson regarding the Minnesota Licensed Beverage Association, Frank Ball, and William

The Chair reported that in its executive session, the Board made findings and issued orders in the above matters. The findings and orders are attached to and made a part of these minutes.

OTHER BUSINESS

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

Respectfully submitted,



Gary Goldsmith
Executive Director

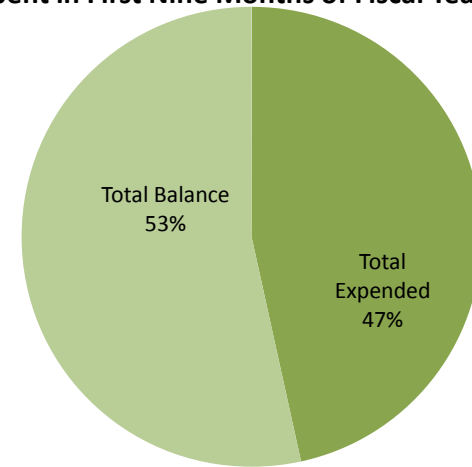
Attachments:
Budget chart
Memorandum regarding reconciliation issues
Proposed rules
Chart showing investigation process

Findings and Order in the Matter of the Complaint of Pat Shortridge regarding the Minnesota DFL and the Democratic Legislative Campaign Committee (DLCC)
Findings and Order in the Matter of the Complaint of Mark Jacobson regarding the Minnesota Licensed Beverage Association, Frank Ball, and William Griffith

Fiscal Year 2014
Third Quarter Report - July 1, 2013 through March 31, 2014

	Board Spending Plan	Adjusted Budget	Change in Budget Item	Expended	Percentage Expended	Balance
Full time salaries	\$708,000.00	\$690,000.00	-\$18,000.00	\$358,868.12	52.01%	\$331,131.88
Part time salaries	\$65,000.00	\$65,000.00		\$36,956.00	56.86%	\$28,044.00
Other Benefits	\$5,000.00	\$5,000.00		\$2,252.00	45.04%	\$2,748.00
Space Rental	\$39,966.00	\$39,966.00		\$29,808.28	74.58%	\$10,157.72
Repairs	\$500.00	\$500.00		\$0.00	0.00%	\$500.00
Printing	\$4,200.00	\$4,200.00		\$514.75	12.26%	\$3,685.25
Professional Legal Services	\$10,000.00	\$10,000.00		\$1,771.84	17.72%	\$8,228.16
IT Professional Technical Services	\$116,500.00	\$116,500.00		\$3,437.50	2.95%	\$113,062.50
Computer Systems and Services	\$20,500.00	\$35,500.00	\$15,000.00	\$17,713.19	49.90%	\$17,786.81
Postage	\$7,700.00	\$7,700.00		\$1,855.32	24.10%	\$5,844.68
Travel - In State	\$1,400.00	\$2,400.00	\$1,000.00	\$2,012.03	83.83%	\$387.97
Travel - Out of state	\$5,400.00	\$5,400.00		\$3,269.41	60.54%	\$2,130.59
Supplies	\$4,804.00	\$4,804.00		\$1,751.72	36.46%	\$3,052.28
Equipment Rental (Copier)	\$2,700.00	\$2,700.00		\$1,265.30	46.86%	\$1,434.70
Maintenance Contract	\$1,200.00	\$1,200.00		\$361.45	30.12%	\$838.55
Equipment	\$0.00	\$2,000.00	\$2,000.00	\$1,544.46	77.22%	\$455.54
Employee Training	\$1,700.00	\$1,700.00		\$1,595.00	93.82%	\$105.00
OAH Rule Services	\$4,500.00	\$4,500.00		\$0.00	0.00%	\$4,500.00
Other Operating Costs	\$930.00	\$930.00		\$370.00	39.78%	\$560.00
Total	\$1,000,000.00	\$1,000,000.00		\$465,346.37	46.53%	\$534,653.63

Percentage of Budget Spent in First Nine Months of Fiscal Year



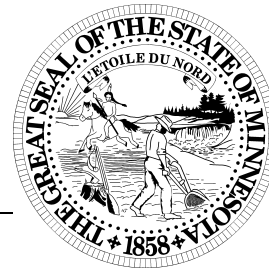
Operating Budget Detail

Acct		FTE	2014	Adj
41000	Full time salaries	8	690,000	(18,000)
41030	Part time salaries	1	65,000	
41070	Other Benefits			
	Per Diem			
	12 mtgs x 6 + 1 special (6) + 2 confirmations = 80		4,400	
	Workers comp admin fee		400	
	Contingency		200	
41070	Total		5,000	
41100	Space Rental			
	Board parking =13 mtgs x 7 permits + 4 confirmations = 95 permits @ \$5		475	
	Office Lease		39,491	
	Contingency			
41100	Total		39,966	
41500	Repairs, Maint		500	
41110	Printing and advertising			
	State Register Rulemaking		4,000	
	Statute books @ \$12 each			
	State Register misc required notices		200	
	Total		4,200	
41130	Prof Technical Services			
	Court Reporter (411313)		5,000	
	Website consult/design (artistic)		5,000	
	41130 Total		10,000	
41145	IT Prof Technical Services			
	Govt IT symposium 3 attendees per year		1,500	
	IT Training		0	
	Coding/development - Web		100,000	
	Consult -Elect records mgmnt		10,000	
	Consultant - website management		5,000	
	41145 Total		116,500	
41150	Computer systems and services			
	Computing services 176.50/mo			
	Northstar + email = \$176.50/mo		2,118	
	Microsoft Enterprise License		1,040	
	SHI Software upgrades		12,000	
	Installshield or similar		1,200	

	Trend Micro anti virus		300	
	Smart SVN		125	
	Madcap products support updates		1,200	
	XML Editor			
	Windows Virtual Server Manager			
	Adobe Acrobat		1,000	
	Dreamweaver		200	
	Security certificates		0	
	Web content management system		1,000	
	Camtasia		300	
	Contingency		17	
	Microsoft server and database licensing		15,000	15,000
41150	Total		35,500	
41155	Communications			
	Admin - Central Mail		3,200	
	MN.IT WAN Services IVR/Ccnet = \$118/mo		1,416	
	MN.IT VOIP, Voice and Webex		3,000	
	contingency		84	
41155	Total		7,700	
41160	Travel - in state			
	Board: \$100*13 mtgs - FY 12-13		1,300	
	Staff - misc - incl. out-state training		1,100	1,000
41160	Total		2,400	
41170	Travel - Out of state			
	Cogel Conf and steering cmte			
	Cogel Hotel		1,400	
	Cogel Air		1,500	
	Meals		350	
	Incidental		150	
	Heartland conference - 2 attendees - total		2,000	
41170	Total		5,400	
41300	Supplies			
	IOS office supplies		3,870	
	Premium Waters		200	
	Letterhead and env printing - Minncor			
	Legal Leger - PIM and cap. rpt		238	
	Locate Plus subscription		400	
	Battery			
	Tape Backup			
	Memory upgrade - server			
	contingency		96	
41300	Total		4,804	

41400	Equip. rental (copy machine)		2,700
41500	Maintenance contracts (copy machine)		1,200
47160	Equipment - non-capital - computers, printers		2,000
41180	Employee development		
	Cogel conf x 2		1,100
	Heartland x 2		200
	Staff training		400
41180	Total		1,700
41190	OAH Rule review/ Contested cases		4,500
43000	Other operating costs		
	Service of process fees		400
	Contract operations services		
	Security badges and keys		30
	Cogel membership		500
43000	Total		930
	Operating exp total		1,000,000
	Appropriation		1,000,000
	Surplus (Shortage)		0

Campaign Finance and Public Disclosure Board



190 Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

DATE: June 3, 2014

TO: Board Members

FROM: Jeff Sigurdson
Assistant Director

TELEPHONE: 651-539-1189

SUBJECT: Update on Reconciliation of Contributions between Registered Committees

Reconciliation of Contributions - 2000 through 1st Quarter 2014.

The amount of unreconciled contributions remaining in the Board's production databases by year is shown in the table below. Note that the amounts of unreconciled contributions for 2013 and 2014 have been added to the column for May, with a new overall total of unreconciled contributions of \$13,709,110.

The reconciliation of 2013 is underway with letters requesting a review of reported contributions made or received sent to 234 political committees and funds and political party units and another 125 requests sent to candidate committees. Staff anticipates that the amount of 2013 unreconciled contributions will drop significantly by the next Board meeting.

November 2, 2013 Not Reconciled Difference Over			April 21, 2014 Not Reconciled Difference Over			May 28, 2014 Not Reconciled Difference Over		
Year	\$100		Year	\$100		Year	\$100	
2000	\$2,842,098		2000	\$2,795,078		2000	\$2,794,210	
2001	\$470,640		2001	\$373,140		2001	\$373,140	
2002	\$6,241,753		2002	\$1,856,315		2002	\$1,855,815	
2003	\$372,648		2003	\$351,598		2003	\$351,598	
2004	\$2,335,382		2004	\$2,305,950		2004	\$2,303,107	
2005	\$248,193		2005	\$185,817		2005	\$185,817	
2006	\$483,346		2006	\$416,821		2006	\$417,121	
2007	\$615,574		2007	\$512,529		2007	\$512,529	
2008	\$2,686,354		2008	\$2,675,880		2008	\$2,675,135	
2009	\$351,235		2009	\$284,354		2009	\$284,030	
2010	\$4,791,084		2010	\$496,043		2010	\$495,359	
2011	\$500,960		2011	\$374,026		2011	\$373,526	
2012	\$4,326,600		2012	\$24,573		2012	\$24,573	
Total	\$26,265,867		Total	\$12,652,124		Total	\$12,645,959	
						2013	\$417,657	
						2014	\$645,494	
						Total	\$13,709,110	

I anticipate that reducing unreconciled contributions from prior years will also start to show movement again with the filling of the Programs Assistant position. Mr. Schons has started to work on outstanding records from 2011.

2014 1st Quarter Report – Information on the Board’s website

The searchable database of contributions made and received available on the Board’s website has been programmed to contain only contributions that reconcile. A notice explaining that only reconciled records are in the database is prominently displayed at the top of each page. This approach of displaying only reconciled records was put into place in December of 2013. Now, however, staff believes that an exception to this approach is needed to provide timely disclosure to the public of contributions that are being made in 2014.

The 1st Quarter Report of Receipts and Expenditures was due on April 14, 2014. Not all committees were required to file this report. The state central committees of political parties and the party units organized for the legislative caucuses (9 party units), all political committees (237 committees), and all political funds that had activity during the reporting period (177 filed a report) were required to report contributions made to candidates. However, only candidates running for a constitutional office or appellate judicial office (45 committees) were required to file the 1st Quarter Report. The first report from candidates for the House of Representatives is not due until July 28, 2014.

This creates a reconciliation problem that is primarily caused by a mismatch of reporting periods rather than by reporting errors. The 2014 1st Quarter Report currently contains 580 unreconciled contributions. Of that number 442 are contributions to House candidates. This discrepancy based on differing reporting periods will continue to grow as the committees and funds that filed the first quarter report will also have a second report due on June 16, 2014.

To provide an accurate representation of what filers actually reported, the Executive Director has directed staff to display all 2014 contribution data, reconciled and unreconciled, on the Board’s website. The web based searchable database will be modified to display a special message when 2014 is selected as a search criterion. The message will indicate that unlike contributions from other years the 2014 data contains records that do not reconcile.

I believe that the large majority of the unreconciled contributions to candidates will resolve themselves with the July 28th report. But if contribution data is not released until the House candidates submit their first report the data will be available to the public only fourteen days before the primary election (August 11).

Notice:

The text of this document does not constitute proposed rules. This document is a collection of thoughts and ideas to guide the Board rules committee in its discussions as the text of actual rules is developed. It is certain that there will be significant differences between this document and the rules the Board proposes.

Since this document is a vehicle for discussion, comments from any interested person are welcomed. They may be sent to jodi.pope@state.mn.us.

Working Draft – Campaign Finance Board Rules – 2014

Current provision - 4501.0100, Subp. 9. Promptly. “Promptly” means within ten business days after the event that gave rise to the requirement.

4525.0100 DEFINITIONS.

Current provision - Subpart 1. Scope. The definitions in this part apply to this chapter and Minnesota Statutes, chapter 10A. The definitions in chapter 4501 and in Minnesota Statutes, chapter 10A, apply to this chapter.

Subp. **Complaint.** “Complaint” means a written statement, including any attachments, that:

- A. alleges that a person named in the complaint has violated Chapter 10A or another statutory provision under the board’s jurisdiction, and
- B. complies with the requirements in part 4525.0200, subpart 2.

Text of part 4525.0200, subpart 2:

Subp. 2. **Form.** Complaints must be submitted in writing. The complaint may be submitted on a form provided by the board, or may be typed or handwritten. The name and address of the person making the complaint must be typewritten or hand-printed on the complaint and it must be signed by the complainant or an individual authorized to act on behalf of the complainant. A complainant shall list the alleged violator and the alleged violator’s address if known by the complainant and describe the complainant’s knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints are not available for public inspection or copying until after the board makes a finding. ~~No investigations are required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator, or is unsigned by the complainant.~~

Subp. **Complainant.** “Complainant” means a person who submits a complaint.

Current provision - Subp. 3. Contested case. ~~“Contested case” means a proceeding before the board in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a board hearing. “Contested case” includes a proceeding pursuant to a request for exemption from campaign reporting requirements under~~

~~Minnesota Statutes, section 10A.20, subdivisions 8 and 10; a proceeding to suspend a public official without pay for failure to file a statement of economic interest under Minnesota Statutes, section 10A.09, subdivision 8; a hearing ordered by the board under part 4525.0900, subpart 2 concerning a complaint, investigation, or audit; and any other hearing which may be ordered by the board under parts 4525.0100 to 4525.1000 or which may be required by law.~~

~~"Contested case" does not include a board investigation or audit conducted under Minnesota Statutes, section 10A.02, subdivisions 9 and 10.~~

~~**Current provision - Subp. 5. Party.** "Party" means a person whose legal rights, duties, or privileges may be determined in a contested case. "Party" includes the board except when the board participates in the contested case in a neutral or quasi-judicial capacity only. In anonymous proceedings, "party" includes the person designated to appear by the applicant under part 4525.1000. In a contested case commenced by the board following a complaint, "party" includes both the person who filed the complaint and the person against whom it was filed.~~

~~**Current provision - Subp. 6. Person.** A "person" includes "Person" means an individual, an association, or any government or governmental a political subdivision, unit, or agency, other than a court of law or a public higher education system.~~

Subp. **Respondent.** "Respondent" means a person that is the subject of a complaint, an informal inquiry, a formal investigation, or a formal audit

New part - NOTICE

Subp. **Scope.** The provisions in this part apply to all notices required to be given under Minnesota Statutes section 10A.02, subdivision 11 (a) and (c), and Minnesota Rules chapter 4525.

Subp. **Notice, where sent.** If a respondent is registered with the board, notices must be sent by electronic and United States mail to the most recent addresses that the respondent provided in a filing with the board.

Current part - 4525.0200 COMPLAINTS OF VIOLATIONS.

Current provision - Subpart 1. Who may complain. A person who believes a violation of Minnesota Statutes, chapter 10A, or rules of the board has occurred may submit a written complaint to the board.

Current provision - Subp. 2. Form. Complaints must be submitted in writing. The complaint may be submitted on a form provided by the board, or may be typed or handwritten. The name and address of the person making the complaint must be typewritten or hand-printed on the complaint and it must be signed by the complainant or an individual authorized to act on behalf of the complainant. A complainant shall list the alleged violator and the alleged violator's address if known by the complainant and describe the complainant's knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints are not available for public inspection or copying until after the board makes a finding. ~~No investigations are required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator, or is unsigned by the complainant.~~

Current provision - Subp. 4. **Oath.** Testimony given in a meeting conducted by the board under this chapter must be under oath.

Current provision - Subp. 5. **Confidentiality.** Any portion of a meeting during which the board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting must be closed to the public. The minutes and tape recordings of a meeting closed to the public must be kept confidential.

~~**Current provision** - Subp. 6. **Hearings.** At any time during an investigation of a complaint, the board may hold a contested case hearing before making a finding on the complaint.~~

New part or part of complaint part - Prima facie violation determination

Subp. **Prima facie violation determination.** In determining whether a complaint states a prima facie violation, any evidence outside the complaint or its attachments may not be considered.

If a finding is made that a complaint does not state a prima facie violation, the complaint must be dismissed without prejudice. The dismissal must be ordered by the board member making the determination or by the full board if the full board makes the determination. The order must be in writing and must indicate why the complaint does not state a prima facie violation.

If a finding is made that a complaint states a prima facie violation, the board chair must schedule the complaint for a probable cause determination.

Subp. **Action after prima facie violation determination.** The executive director must promptly notify the complainant and the respondent of the prima facie determination. The notice must include a copy of the order.

If a determination is made that a complaint states a prima facie violation, the notice also must include the date of the meeting at which the board will make a probable cause determination regarding the complaint and a statement that the complainant and the respondent have the opportunity to be heard before the board makes the probable cause determination.

New part or part of complaint part - Probable cause determination

Subp. **Probable cause determination.** In determining whether probable cause exists, the board must consider the evidence in the complaint, including any attachments, the information and arguments in any statement submitted by the complainant or respondent, and any reasonable inferences that can be drawn from the materials before it.

The definition of probable cause is under development. The threshold cannot be so high that the complainant has to prove the violation before an investigation has occurred but it has to be higher than prima facie. Some possible ideas include a reasonable person-type standard or viewing the evidence in the light most favorable to the complainant. The standard "more likely than not" probably is too high.

Finding probable cause to believe that a violation has occurred means that the board concludes that the allegations of the complaint suggest a reasonable probability that if the complaint is formally investigated, a violation will be shown to have occurred.

Subp. **Probable cause not found.** If the board finds that probable cause does not exist to believe that a violation has occurred, the board must order that the complaint be dismissed without prejudice. The order must be in writing and must indicate why probable cause does not exist to believe that a violation has occurred.

The executive director must promptly notify the complainant and the respondent of the board's determination. The notice must include a copy of the order dismissing the complaint for lack of probable cause.

Subp. **Action if formal investigation not warranted.** If the board finds that there is probable cause to believe that a violation has occurred but that the violation does not warrant a formal investigation, the board must

- A. order an informal inquiry into the matter under part X [informal inquiry]; or
- B. order that the complaint be dismissed.

In making this determination, the board must consider the type of possible violation, the magnitude of the violation if it is a financial violation, the extent of knowledge or intent of the violator, the benefit of formal findings, conclusions, and orders compared to informal resolution of the matter, the availability of board resources, and any other factor that bears on the decision to proceed with a formal investigation.

The order must be in writing and must indicate why the violation does not warrant a formal investigation.

The executive director must promptly notify the complainant and the respondent of the board's determination. The notice must include a copy of the order.

Subp. **Action if probable cause found.** If the board finds that probable cause exists to believe that a violation that warrants a formal investigation has occurred, the board must order a formal investigation into the alleged violation. The order must be in writing and must describe the alleged violations, the scope of the investigation, and the discovery methods available for use in the investigation.

When the board orders a formal investigation, the executive director must promptly notify the complainant and the respondent that the board has found that probable cause exists to believe that a violation that warrants a formal investigation has occurred and that the board has started a formal investigation into the matter.

The notice to the respondent also must:

- A. include a copy of the probable cause order;
- B. explain how the investigation is expected to proceed;
- C. explain the respondent's rights at each stage of the investigation, including the right to provide a written response to any alleged violation, and
- D. state that the respondent will be given an opportunity to appear before the board prior to the board's determination as to whether the alleged violation occurred.

New part - Informal inquiry

Subp. **Informal inquiry.** In an informal inquiry, the executive director works informally with a respondent to determine whether a violation of chapter 10A or another statutory provision under the board's jurisdiction exists and how a violation should be resolved.

This subpart is under development.

Subp. **Informal inquiry required.** The executive director, acting on behalf of the board, must initiate an informal inquiry into a matter in the following situations:

- A. when directed to do so by the board under part X, subpart Y [referred complaint];
- B. when information provided on a report filed with the board suggests that there has been a violation of chapter 10A or another statutory provision under the board's jurisdiction;
- C. when information provided on a report filed with the board is not sufficient to explain a reported transaction;
- D. when information provided on a report filed with the board suggests that a transaction may not be reported accurately; or
- E. when information provided on a report filed with the board provides another articulable basis for further review.

This subpart is under discussion.

Subp. **Exception.** The executive director is not required to initiate an informal inquiry under subpart 1 when the amount of the potential violation is too small to justify the use of board resources for the inquiry.

This subpart is under discussion. Other language options include:

1. **unless the executive director determines that the amount of the violation is too small to justify the use of board resources for the inquiry**
2. **unless the amount of the violation is less than the threshold set by the board for informal inquiries**

Subp. **Late fees and civil penalties.** If the respondent in an informal inquiry acknowledges a violation that is subject to a late filing fee or a civil penalty, the executive director must report the matter to the board in open session and the board must determine the amount of the late fee or civil penalty. The person who will be the subject of the late fee or civil penalty must be given an opportunity to be heard by the board at the meeting at which the late fee or penalty will be considered.

Subp. **Submission to the board.** If a matter cannot be resolved through an informal inquiry, the executive director must bring the matter to the board for a determination regarding whether the matter warrants a formal investigation. The submission must be in writing, must describe the potential violation involved, and must include any supporting information.

Subp. **Notice.** The executive director must promptly send notice to the respondent that the executive director has asked the board to determine whether the matter warrants a formal investigation. The notice must be sent at least 15 days before the meeting at which the board will consider the submission. The notice must include a copy of the executive director's submission, the date of the meeting at which the board will consider the matter, and a statement

that the respondent has the opportunity to be heard by the board before the board's determination regarding the submission.

Are there situations that can't be resolved informally, but which we do not want to submit to the Board?

Are there scenarios where an informal inquiry would not suggest a violation, but the Board would want to more formally audit the respondent? The Board can always audit without cause.

Are there situations where the Board would want to initiate an investigation without an informal inquiry first occurring? In such a case, notice to the respondents would occur promptly after the Board authorizes the investigation.

New part - Board review of informal inquiry submission

Subp **Determination.** In determining whether a matter under informal inquiry warrants a formal investigation, the board must consider the evidence in the submission, including any attachments, the information and arguments in any statement submitted by the respondent, and any reasonable inferences that can be drawn from the materials before it.

In making this determination, the board must consider the type of possible violation, the magnitude of the violation if it is a financial violation, the extent of knowledge or intent of the violator, the benefit of formal findings, conclusions, and orders compared to informal resolution of the matter, the availability of board resources, and any other factor that bears on the decision to proceed with a formal investigation.

Subp. **Formal investigation not warranted.** If the board finds that a matter does not warrant a formal investigation, the board must direct the executive director to continue the informal inquiry or must issue an order dismissing the matter without prejudice. The dismissal order must be in writing and must indicate why the matter does not warrant a formal investigation.

The executive director must promptly notify the respondent of the board's determination. If the matter is dismissed, the notice must include a copy of the dismissal order.

Subp. **Formal investigation warranted.** If the board finds that a matter that is the subject of an informal inquiry warrants a formal investigation, the board must order a formal investigation. The order must be in writing and must describe the alleged violations, the scope of the investigation, and the discovery methods available for use in the investigation.

When the board orders a formal investigation, the executive director must promptly notify the respondent that the board has started a formal investigation into the alleged violation.

The notice to the respondent must:

- A. include a copy of the order initiating the investigation;
- B. explain how the investigation is expected to proceed;
- C. explain the respondent's rights at each stage of the investigation, including the right to provide a written response to any alleged violation, and
- D. state that the respondent will be given an opportunity to appear before the board prior to the board's determination as to whether the alleged violation occurred.

New part - Summary proceedings

This section is in the preliminary stages of development.

Subp. A summary proceeding is a process for the resolution of a matter without a formal investigation.

Subp. At any time, a respondent may submit a proposal to the board for resolving a matter in whole or in part without a formal investigation. The respondent's proposal for summary proceedings

A. must be in writing,

B. must specify the issues the respondent is seeking to resolve through summary proceedings, and

C. must explain why those issues are suitable for summary proceedings with sufficient specificity for the board to make a decision regarding the proposal.

Subp. The Board is not required to agree to a proposal for summary proceedings.

Current part - 4525.0500 INVESTIGATIONS AND AUDITS.

New provision - Subp. Scope. These provisions apply to formal investigations and formal audits.

Current provision. Subpart 1. **No complaint.** The board may undertake investigations or audits with respect to statements and reports which are filed or should have been filed under Minnesota Statutes, chapter 10A, although no complaint has been filed. Any decision as to whether an investigation should be undertaken must be made at a closed meeting of the board.

~~**Current provision** - Subp. 2. **Conduct.** Investigations and audits must be conducted in an expeditious manner, but with regard for fundamental fairness. Within a reasonable time after undertaking an investigation or audit, the executive director of the board shall inform the person under investigation or audit of the fact of the investigation or audit. The board shall make no final decision on any investigation or audit unless the person under investigation or audit has been informed of the charges and has had the opportunity to make a statement to the board or its employees or agents.~~

~~**Current provision** - Subp. 3. **Contested case hearing.** At any time during an investigation or audit, the board may hold a contested case hearing before making a finding on any investigation or audit.~~

Current provision - Subp. 5. **Board meetings.** Board meetings related to an investigation or audit must be conducted in accordance with part 4525.0200, subparts 4 to 6. At every board meeting, the executive director must report on the status of all active formal investigations and formal audits.

New provisions to add to investigation and audit part

Subp. **Description of formal audit.** In a formal audit, the board requests documentation to verify the accuracy of an entire report or sections of a report filed with the board.

Subp. **Final audit report.** The final report issued after a formal audit must include the name of the primary board employee responsible for conducting the audit, the name of the person subject to the audit, a description of any audit findings, a description of any responses provided by the person who was subject to the audit, and a description of the manner in which any findings were resolved.

What is not included: underlying documents – which are confidential; audit notes; internal communications.

Subp. **Respondent submission.** The respondent may supply additional information, including sworn testimony, not requested by the board. The board must consider the information submitted by the respondent in making its decision.

Subp. **Subpoenas.** The board may issue subpoenas when necessary to advance an investigation. The board may not issue a subpoena for the production of documents until a respondent has had at least 14 days to respond to a written request for the documents. When deciding whether to issue a subpoena, the board must consider the level of staff resources in taking witness testimony and conducting discovery.

New part - Opportunity to be heard

Subp **Opportunity to be heard.** When a provision in Minnesota Statutes chapter 10A or Minnesota Rules chapter 4525 provides that a person has an opportunity to be heard by the board, the person must be given an opportunity to appear in person at a board meeting before the board makes a determination on the matter on which the person is required to have an opportunity to be heard. The person is not required to appear before the board.

A person who has an opportunity to be heard may submit a written statement to the board in addition to or in lieu of an appearance before the board. The submitted statement must be reviewed by the board before the board makes a determination on the matter. A written statement submitted under this part must be provided at least ten business days before the board meeting at which the matter will be heard. The board may waive the ten-day submission requirement if the person submitting the statement shows good cause for not meeting the submission deadline.

The opportunity to be heard does not include the right to call witnesses or to question opposing parties, board members, or board staff.

The board may set a time limit for statements to the board when necessary for the efficient operation of the meeting.

When notice of the opportunity to be heard has been sent as required in subpart X, the failure to appear in person or in writing at the noticed meeting constitutes a waiver of the opportunity to be heard at that meeting.

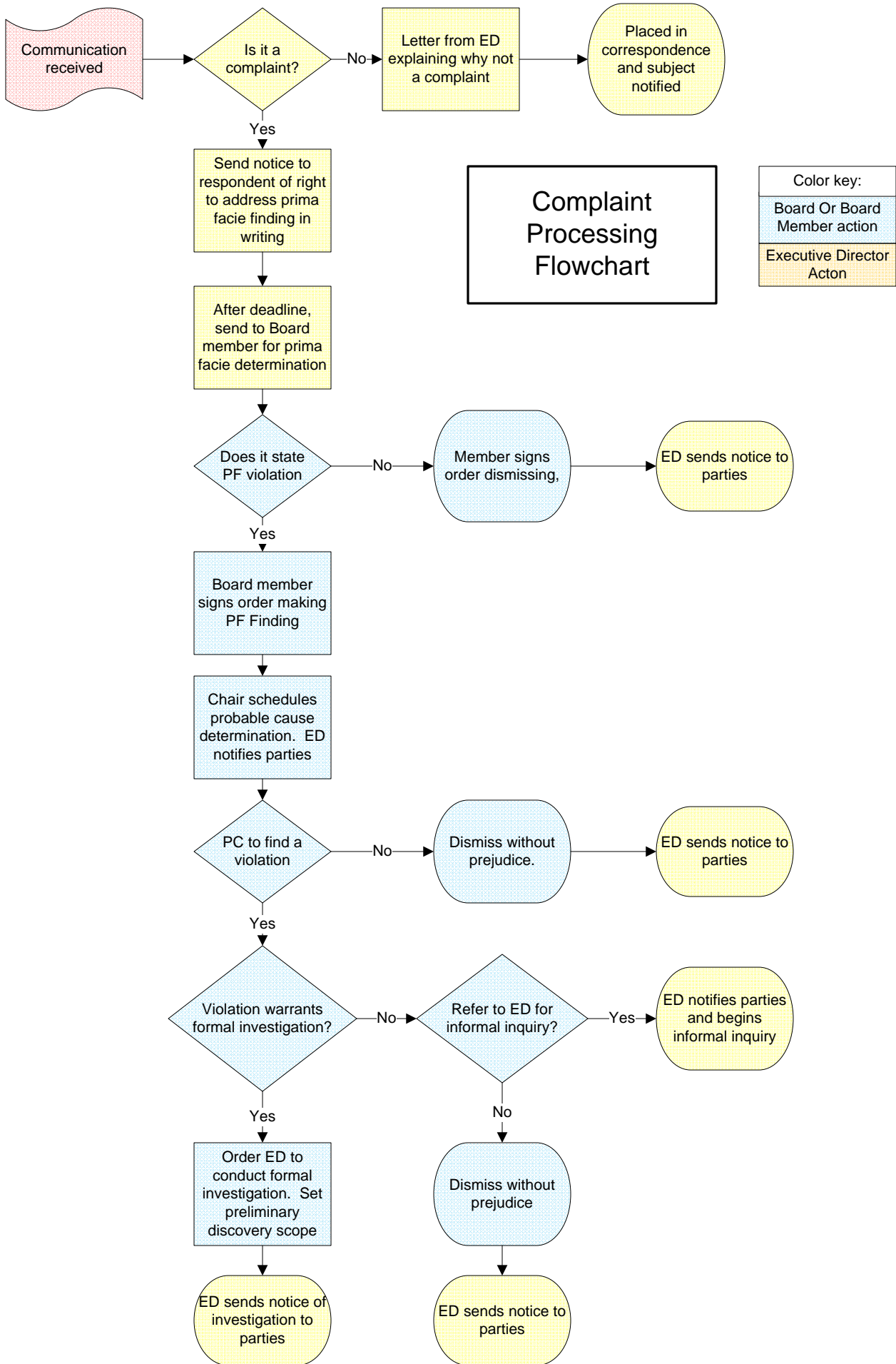
Subp. **Layover.** The board may continue a matter to its next meeting if

- A. the parties agree;
- B. the investigation is not complete;
- C. the respondent shows good cause for the continuance; or

D. the delay is necessary to equitably resolve the matter.

New part or in definitions? Findings and conclusions

Subp. Findings and conclusions include any order issued in the matter and any documents incorporated by reference.



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

**Findings and Order in the Matter of the Complaint of Pat Shortridge regarding the
Minnesota DFL and the Democratic Legislative Campaign Committee**

The Complaint

On November 5, 2012, Pat Shortridge, then Chair of the Republican Party of Minnesota (RPM), filed a complaint with the Campaign Finance and Public Disclosure Board alleging that the Minnesota Democratic Farmer Labor (DFL) Party violated Minnesota Statutes section 10A.27, subdivision 13, by accepting contributions of more than \$100 from an unregistered association without written statements meeting the disclosure requirements of section 10A.20 as required by section 10A.27, subdivision 13. The complaint also alleges that the Democratic Legislative Campaign Committee (DLCC), the donor of the subject contributions, violated the same statutory provision by not providing a complete disclosure statement with each contribution.

As evidence of the violations, the complaint refers to the Minnesota DFL Party's 2012 pre-general-election report which showed six contributions from the DLCC to the Minnesota DFL totaling \$550,000. The complaint compares the one-page disclosure statements that the DLCC submitted with its contributions to the multiple-page report of receipts and expenditures that the DLCC filed with the Internal Revenue Service and claims that this difference shows that the DLCC's Minnesota disclosure statements did not disclose all of the information necessary to meet the statutory requirements.

On January 16, 2013, the RPM filed a second complaint alleging that even if the contributions were made by the DLCC acting as an unincorporated association, the disclosure provided with the contributions did not meet the requirements of section 10A.27, subdivision 13. The two complaints were combined for investigation.

The Response

The Board notified both the DFL and the DLCC of the complaint and offered each an opportunity to respond. Board staff also met with representatives of the DFL and the DLCC to obtain a better understanding of the relationships that underlie the allegations of the complaint. Over the course of the investigation, the Board obtained additional information and responses from the DLCC.

The DLCC states that it is a national association of Democratic state legislators whose purpose is to influence legislative elections in the various states. The DLCC states that when it was established in 1994, it chose to incorporate as a nonprofit corporation under the District of Columbia's Nonprofit Corporation Act solely for liability purposes.

The DLCC states that it recognizes that some states prohibit all contributions from corporations, even those incorporated solely for liability purposes. The DLCC explained that its board of directors therefore instructed its officers to form a nonprofit unincorporated association so that this new entity could make contributions and expenditures in the states that prohibit all corporate contributions.

The DLCC acknowledges that its corporate officers manage the affairs of the entire DLCC, including the component it considers to be an unincorporated association. The DLCC further acknowledges that it does all of its fundraising under a single umbrella with no differentiation between the DLCC and the unincorporated association. All money is solicited as donations to "the DLCC" for its general purposes.

The DLCC indicates that it maintains multiple bank accounts, some of which it assigns to the unincorporated association. When a donation is received, the DLCC managers use predefined criteria to decide into which of these several accounts the proceeds of the donation will be deposited. Donations from individuals may be deposited into any of the various accounts. Corporate donations are never deposited into any account reserved for donations from individuals.

The DLCC also responded with regard to the level of disclosure it believed it should be required to provide. All DLCC responses were reviewed by the Board and are part of the record of this matter. This matter was regularly considered by the Board during the executive session of its meetings, at which time the Board provided direction to staff. At its meeting of April 1, 2014, Mr. Brian Svoboda, attorney for the DLCC appeared and addressed the Board regarding the matter. The Board provided further direction to staff and laid the matter over to its April 22, 2014, meeting at which the matter was again considered.

Board Analysis

On September 21, 2012, October 11, 2012, and October 17, 2012, the DLCC made six contributions to the Minnesota DFL Party totaling \$550,000. Two contributions were made on each date. All of the contributions were made from one of the DLCC's accounts into which only the proceeds of donations from individuals were deposited. Each contribution to the Minnesota DFL was accompanied by a letter stating that the DLCC would make the disclosure required by law. Attached to each letter was a disclosure statement that included receipt and disbursement information only for the single bank account from which the Minnesota DFL contribution was made. The Minnesota DFL submitted these disclosure statements with its pre-general-election campaign finance report.

On October 24, 2012, and October 25, 2012, the DLCC made two additional contributions to the Minnesota DFL totaling \$150,000. These contributions were made from the same account as the earlier contributions to the DFL. These contributions also were accompanied by letters agreeing to make the required disclosure and by disclosure statements showing the receipts and disbursements for the single account from which the contributions were made. The Minnesota DFL submitted these disclosure statements with its 2012 year-end campaign finance report.

Board records also indicate that the DLCC made two contributions to the DFL in 2005 totaling \$35,000, three contributions in 2006 totaling \$340,000, and one contribution of \$25,000 in 2010. In each case the DFL provided with its periodic reports the disclosure statement it received from the DLCC. A comparison by Board staff of the disclosure statements provided to the DFL with the disclosure reports filed with the Internal Revenue Service for the same periods suggests each disclosure statement, like those provided in 2012, included transactions only from the single bank account from which the subject contribution was made.

Pursuant to Minnesota Statutes Chapter 10A, the Board has the authority to investigate all reports filed with it. When the Board accepts a complaint, it exercises its statutory authority to investigate all possible violations of Chapter 10A that might arise from the conduct alleged in the complaint or from the reports under review regardless of whether the complainant clearly and specifically raised those violations in the complaint. In this matter, the Board exercised that authority to expand the investigation to include all of the contributions to the DFL from the DLCC even though the complaint only included contributions reported in the DFL's 2012 pre-general-election report.

The question before the Board is whether the disclosure provided by the DLCC, relating to only one of several accounts it maintained, met the requirements of Minnesota Statutes section 10A.27, subdivision 13.

In its responses, the DLCC suggests that its disclosure is sufficient on the basis of the limited disclosure of underlying sources that is permitted under Minnesota Statutes section 10A.12, subdivision 5. However, the Board concludes that this section is only available for the transfer of money that consists of "membership dues and fees." The DLCC acknowledges that the source of money used for the contributions to the DFL was unrestricted donations from individuals who were not its members. Thus, the Board concludes that the disclosure system of section 10A.12, subdivision 5, is not applicable in this matter.

The Board recognizes that the DLCC managers could have formed a Minnesota political committee, registered it with the Board and raised money from individuals for its Minnesota political activity. The association that constituted the political committee could have been as simple as two DLCC managers or as complex as the DLCC chose to make it. However, there is an important distinction between what the DLCC did and what it *could have done*. A Minnesota political committee is recognized as an entity separate from any other association, including a corporation, that might be affiliated or associated in some way with the political committee. As a separate entity, the political committee raises money in its own name and makes its own expenditures. As a result, it reports only on its own activity.

Under its current method of operation, the DLCC raises money generically under the DLCC name, which makes its money general treasury money as defined in Chapter 10A. Although the DLCC managers allocate the money out to separate bank accounts, this occurs after it has already become a part of the association's general treasury money. Because it did not establish a separate political committee and raise money specifically for that committee at the time, the only authority permitting the DLCC to contribute to a Minnesota political party is provided by Minnesota Statutes section 10A.27, subdivision 13. Under that section, the reporting entity is the association itself, not an bank account into which the association's management decides whose contributions will be placed. Accordingly, the Board concludes that when an unregistered association makes a contribution pursuant to the limited right granted under section 10A.27, subdivision 13, the disclosure statement that is provided should include all of the information required by section 10A.20, subdivision 3, for the entire association that made the contribution.

The facts of this matter and the responses of the DLCC make it clear that there was no effort or intent on the part of the DLCC to hide any of its donors from the public. In fact, the DLCC files reports annually with the Internal Revenue Service listing its donors even in years that it makes no contributions in Minnesota. Additionally, the DLCC did provide disclosure to the DFL with each of its 2012 contributions. That disclosure was consistent with the disclosure it had

provided each time it made a contribution to the DFL since 2005 and which had been accepted by the Board without comment.

As a result of its interchanges during this investigation, the DLCC now understands the Board's conclusion that when an unregistered association makes a contribution pursuant to the limited right granted under section 10A.27, subdivision 13, the disclosure statement that is provided must include all of the information required by section 10A.20, subdivision 3, for the entire association that made the contribution.

The DLCC also understands a political committee will disclose a more limited set of information because the political committee raises and spends money in its own name. Donors specifically give to the political committee and all donors to the political committee are disclosed, subject to statutory itemization thresholds. After review of Chapter 10A's requirements with Board staff, the DLCC intends to establish and register a Minnesota political committee through which it will raise and spend money to influence Minnesota elections going forward.

The DLCC will designate the checking account from which the contributions to the DFL were made to the Minnesota political committee as its depository. The account has some money in it resulting from individual donations that were deposited into the account prior to the formation of the political committee. Because these donations were placed in the account at the discretion of the DLCC managers rather than because they were intended for the Minnesota political committee, the DLCC asks the Board whether it may retain those donations in the account as part of the political committee's treasury.

A direct conversion of general treasury money to political committee contributions is not provided for under Minnesota statutes. However, the Board recognizes that the DLCC could refund the contributions to the original donors and request that the donors make the contributions back to the political committee. The Board does not typically require an association to engage in exercises of form over substance. Therefore, the DLCC may consider the individual donations in the account to be contributions to political committee if it sends each donor whose donation is to be considered a political committee contribution a written communication indicating that the DLCC has formed a political committee that is registered in Minnesota, that the DLCC wishes to treat the donor's contribution as a contribution to the political committee, and that if the donor wishes to opt out of this treatment, the DLCC will transfer the donor's contribution to another DLCC account. The DLCC should keep a record of these letters and any responses for four years after the 2014 reporting period ends. An amount equal to the donation from any donor who opts out of being a contributor to the political committee must be transferred to some other account of the DLCC and records be retained.

With the establishment of a Minnesota political committee, the DLCC ensures that money raised and used by the committee will be disclosed in full compliance with the requirements of Chapter 10A.

When it filed this complaint with the Board, the RPM also filed a complaint with the Office of Administrative Hearings alleging that the contributions to the DFL constituted corporate contributions. The administrative law judge dismissed the complaint for lack of probable cause. At the time the contributions that are the subject of these complaints were made the Board had no jurisdiction over Minnesota's corporate contribution laws. Although the Board now has limited jurisdiction over these laws, the Board considers the questions of corporate participation

in these transactions, including those from prior years, to be resolved by the OAH proceeding and not subject to further Board review.

The maximum penalty for an unregistered association that violates the disclosure requirement in Minnesota Statutes section 10A.27, subdivision 13 (b), is \$1,000 per violation regardless of the amount of the violation. The Board's approach in these matters has typically been to impose a civil penalty on the donor in the amount of one times the amount that the contributions exceeded the \$100 threshold for contributions from unregistered associations, subject to the \$1,000 per contribution limit. However, this is not a typical section 10A.27, subdivision 13, matter. Here, the Board accepted the association's disclosure over a period of several years before the complaint was filed. Additionally, in a typical matter there has been no effort to comply with the disclosure requirement. Here disclosure statements were prepared and filed, though at an account level rather than at the association level. Finally, the DLCC did disclose all of its donors, though to the IRS, not to the Board. In addition, the DLCC has taken all of the steps recommended by the Board to ensure that it fully meets its disclosure requirements under Chapter 10A in the future.

For these reasons, the Board will not impose a civil penalty in this matter.

Typically where the disclosure requirement of section 10A.27 is not met, the Board requires the recipient to return to the donor any amount in excess of the \$100 that may be accepted from a unregistered association without a disclosure statement. However, the Board does not require associations to engage in transfers merely for the sake of form over substance.

In this matter, the DLCC will register a political committee. If the DFL returns the subject contributions to the DLCC, the DLCC can refund the contributions to the original donors. The DLCC could then solicit the same donors for contributions to its political committee which, in turn, could make donations back to the DFL in full compliance with Chapter 10A. For this reason, the Board will not require the DFL to return the DLCC's contributions

Finally, there is no evidence in the record to suggest anything other than that when the Minnesota DFL Party accepted the contributions from the DLCC, the DFL relied in good faith on the DLCC's representations that the DLCC had made the proper disclosure. The Minnesota DFL Party also submitted the provided disclosure statements with its reports as required by Chapter 10A. Accordingly, the Board will not find that the Minnesota DFL Party violated Minnesota Statutes section 10A.27, subdivision 13 (a), in this case.

Based on the evidence before it and the above analysis the Board makes the following:

Findings of Fact

1. The DLCC made eight contributions to the Minnesota DFL Party in 2012. Two of the contributions were made on September 21, 2012; two were made on October 11, 2012; and two were made on October 17, 2012. The remaining two contributions were made on October 24, 2012, and October 25, 2012.
2. The DLCC also made a total of six contributions to the DFL between 2005 and 2010.
3. The DLCC is not registered with the Board and therefore was required by Minnesota Statutes section 10A.27, subdivision 13, to submit a disclosure statement meeting the

disclosure requirements of Minnesota Statutes section 10A.20 with each of its contributions.

4. The DLCC provided a disclosure statement with each of its contributions. Those statements provided disclosure only on a single account of the association rather on the association itself.
5. In addition to the disclosure statements provided by the DLCC to the DFL, the DLCC filed regular disclosure statements with the Internal Revenue Service disclosing its receipts and expenditures. These statements included all of the DLCC's financial activities. However, similar statements were not provided to the recipient of the subject contributions with each contribution and, thus, could not be filed by the recipient with its next report.
6. The Minnesota DFL Party timely submitted the DLCC's disclosure statements with the DFL Party's campaign finance reports.

Conclusions of Law

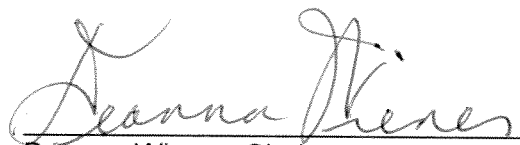
1. Minnesota Statutes section 10A.27, subdivision 13 requires that disclosure statements relate to the association as a whole; the DLCC's disclosure statements related only to the single account from which it made contributions.
2. The data included in filings that the DLCC made with the Internal Revenue Service would have been sufficient to meet the disclosure requirements of section 10A.27, subdivision 13 had it had been provided to the DFL with the subject contributions. The DLCC financial reports for 2012 are currently available online. As a result, the Board will not require the DLCC to submit additional disclosure statements to support the subject contributions.
3. The Minnesota DFL Party did not violate Minnesota Statutes section 10A.27, subdivision 13, because it timely submitted the disclosure statements provided to it by the DLCC with its reports.

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

ORDER

The Board investigation of this matter is hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11, and upon provision and this matter is concluded.

Dated: June 3, 2014



Deanna Wiener, Chair
Campaign Finance and Public Disclosure Board

Relevant Statutes

Minnesota Statutes section 10A.27 Contribution Limits

Subd. 13. **Unregistered association limit; statement; penalty.** (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$200 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10A.20. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board.

(b) An unregistered association may provide the written statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which the contribution was made. An unregistered association or an officer of it is subject to a civil penalty imposed by the board of up to \$1,000, if the association or its officer:

(1) fails to provide a written statement as required by this subdivision; or

(2) fails to register after giving the written statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$200 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of \$200.

(d) This subdivision does not apply:

(1) when a national political party contributes money to its state committee; or

(2) to purchases by candidates for federal office of tickets to events or space rental at events held by party units in this state (i) if the geographical area represented by the party unit includes any part of the geographical area of the office that the federal candidate is seeking and (ii) the purchase price is not more than that paid by other attendees or renters of similar spaces.

Minnesota Statutes section 10A.20 Campaign Reports

Subd. 3. **Contents of report.** (a) The report required by this section must include each of the items listed in paragraphs (b) to (c) that are applicable to the filer. The board shall prescribe forms based on filer type indicating which of those items must be included on the filer's report.

(b) The report must disclose the amount of liquid assets on hand at the beginning of the reporting period.

(c) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$200 for legislative or statewide candidates or more than \$500 for ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

(d) The report must disclose the sum of contributions to the reporting entity during the reporting period.

(e) The report must disclose each loan made or received by the reporting entity within the year in aggregate in excess of \$200, continuously reported until repaid or forgiven, together with the name, address, occupation, and principal place of business, if any, of the lender and any endorser and the date and amount of the loan. If a loan made to the principal campaign committee of a candidate is forgiven or is repaid by an entity other than that principal campaign committee, it must be reported as a contribution for the year in which the loan was made.

(f) The report must disclose each receipt over \$200 during the reporting period not otherwise listed under paragraphs (c) to (e).

(g) The report must disclose the sum of all receipts of the reporting entity during the reporting period.

(h) The report must disclose the name and address of each individual or association to whom aggregate expenditures, approved expenditures, independent expenditures, and ballot question expenditures have been made by or on behalf of the reporting entity within the year in excess of \$200, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat and an indication of whether the expenditure was to promote or to defeat the ballot question, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office must allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.

(i) The report must disclose the sum of all expenditures made by or on behalf of the reporting entity during the reporting period.

(j) The report must disclose the amount and nature of an advance of credit incurred by the reporting entity, continuously reported until paid or forgiven. If an advance of credit incurred by the principal campaign committee of a candidate is forgiven by the creditor or paid by an entity other than that principal campaign committee, it must be reported as a donation in kind for the year in which the advance of credit was made.

(k) The report must disclose the name and address of each political committee, political fund, principal campaign committee, or party unit to which contributions have been made that aggregate in excess of \$200 within the year and the amount and date of each contribution.

(l) The report must disclose the sum of all contributions made by the reporting entity during the reporting period.

(m) The report must disclose the name and address of each individual or association to whom noncampaign disbursements have been made that aggregate in excess of \$200 within the year by or on behalf of the reporting entity and the amount, date, and purpose of each noncampaign disbursement.

(n) The report must disclose the sum of all noncampaign disbursements made within the year by or on behalf of the reporting entity.

(o) The report must disclose the name and address of a nonprofit corporation that provides administrative assistance to a political committee or political fund as authorized by section 211B.15, subdivision 17, the type of administrative assistance provided, and the aggregate fair market value of each type of assistance provided to the political committee or political fund during the reporting period.

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

**Findings, Conclusions, and Order in the Matter the Minnesota Licensed Beverage
Association, Lobbyist Frank Ball, and Lobbyist William Griffith**

Summary of the Facts

On April 17, 2014, the Board received two complaints submitted by Mark Jacobson. The first complaint concerned the actions of Frank Ball, a lobbyist registered with the Board, and his activities on behalf of the Minnesota Licensed Beverage Association (MLBA). Mr. Ball was at all relevant times the Executive Director of and a registered lobbyist for the MLBA.

The complaint alleged:

Since late October or early November 2012, Mr. Ball . . . has been urging his members and others to contact members of the Bloomington and Burnsville City Councils, asking them to vote against Total Wine & More's off-sale liquor license applications. Both Bloomington and Burnsville have populations exceeding 50,000 and are located in the seven county metropolitan area. As such, they are considered metropolitan governmental units for the purposes of Minnesota Statutes Chapter 10A. See *Minn. Stat. §10A.01, subd. 4*.

The Bloomington and Burnsville City Councils must take official action to approve Total Wine & More's liquor license applications...

Members of the MLBA have spoken to and e-mailed Bloomington and Burnsville City Council members, asking them to reject Total Wine & More's application for an off-sale liquor license. Representatives of Total Wine & More have been told that municipal liquor stores in communities surrounding Bloomington and Burnsville have also contacted elected and appointed officials asking them to reject Total Wine & More's application for an off-sale liquor license...

Mr. Ball has attempted to influence the official action of the Bloomington and Burnsville City Councils by urging his members and others to communicate with the local officials in these communities... We would note that while Mr. Ball is currently registered as a lobbyist on behalf of the MLBA it is only with respect to legislative action. He is not registered with respect to his attempts to influence the official action of metropolitan governmental units like Bloomington and Burnsville.

The complaint supported these allegations with circumstantial evidence that Mr. Ball had been observed "coordinating [the] efforts of his members to influence the decision of governmental entities" with the Burnsville Planning Commission and the Roseville City Council, entities that do not qualify as metropolitan governmental units (MGUs).

The complaint further alleged that this lobbying activity triggered an obligation for the MLBA to file an Annual Principal Report that includes the expenditures made by the association to lobby MGUs during 2013.

The second complaint contained similar allegations with respect to William Griffith, a lobbyist registered with the Board. The complaint stated:

Mr. Griffith was retained by the [MLBA] at least as early as late October or early November 2013, to oppose Total Wine & More's efforts to obtain off sale liquor licenses in the cities of Bloomington and Burnsville. . . .

Mr. Griffith has been communicating with elected officials in Bloomington and Burnsville to influence the official action of the Bloomington and Burnsville City Councils with respect to Total Wine & More's off-sale liquor license applications...

Because Mr. Griffith was already a registered lobbyist, Minn. Stat. §10A.03, subd. 1 (1) requires him to register with the Board on behalf of the MLBA within five days of having been retained. He has not done so as of today and is in violation of the registration requirements of Chapter 10A.

The complaint supported these allegations by attaching three letters written by Mr. Griffith that identify the MLBA as his client. According to the complaint these letters were written, "in an attempt to influence the official action of the Bloomington and Burnsville City Councils with respect to Total Wine & More's off-sale liquor license applications." The first letter is dated November 1, 2013, and is addressed to the city attorney of the City of Bloomington, the second letter is dated January 24, 2014, and is addressed to the Bloomington Mayor and City Council members, and the third letter is dated February 19, 2014, and is addressed to the licensing specialist for the City of Burnsville (additionally cc'd to the Burnsville Mayor and City Council members, among others).

On May 5, 2014, Mr. Jacobson submitted three more pieces of evidence detailing correspondence between Mr. Griffith and the Burnsville Mayor and City Council members in which Mr. Griffith submits various justifications by which the Burnsville City Council could or should deny Total Wine & More's liquor license application.

Board staff notified Mr. Ball and Mr. Griffith of the complaints on April 25, 2014. Although separate complaints were filed against Mr. Ball and Mr. Griffith the common facts in the complaint led the Board to combine the complaints in one investigation.

Board staff discussed the complaint and the requirements of Chapter 10A in separate phone conversations with Mr. Ball (April 29, 2014) and Mr. Griffith (May 5, 2014). Mr. Ball explained an arrangement whereby Mr. Griffith represented members of the MLBA who had an interest in Total Wine & More's liquor license applications before the city councils of Bloomington, Burnsville, Roseville, and Woodbury. These interested members submitted payment to the MLBA, which in turn compensated Mr. Griffith for his activities.

By letter dated May 5, 2014, Mr. Griffith responded to the complaint. Mr. Griffith stated:

...we believe that our representation of MLBA primarily involved providing legal advice to the association since we had no one on one meetings with decision makers. However, in the interest of resolving this matter, I have enclosed the completed Lobbyist Registration form for Minnesota Licensed Beverage

Association. We opened our file for work at the City of Bloomington on October 29, 2013, and our file for work at the City of Burnsville for February 5, 2014.

Mr. Griffith's lobbyist registration on behalf of the MLBA was accepted as retroactive to October 29, 2013. The registration provided that Mr. Griffith would lobby on the subject of the issuance of liquor licenses and that the type of action sought would be by MGUs. On May 21, 2014, Mr. Griffith amended his registration to retroactively authorize Mr. Ball to be his reporting lobbyist for 2013 and going forward.

By letter dated May 6, 2014, Mr. Ball responded to the complaint. Mr. Ball stated:

I am the designated lobbyist for the Minnesota Licensed Beverage Association (MLBA). I have submitted my lobbyist disbursement reports in a timely manner as directed through your office. That report does not reflect the activities outlined in the complaint. The activities as outlined in the complaint...were that of orchestrating and coordinating certain private business owners who are members of the MLBA in matters before various Cities. I did not have one-on-one interactions with MGUs. My activities were not intended to avoid my report responsibilities, of which I take seriously....

Mr. Griffith ...was hired by a number of our private retail stores who are association members. He represented these businesspersons with legal decisions on investigative matters that were researched in various jurisdictions across the United States. Mr. Griffith assisted me in coordinating this data....The individual private retail stores in the cities indicated paid his fees, and those funds were coordinated and distributed through the MLBA business office....The MLBA business office was the contact and coordinating agency for those funds. No MLBA budgeted funds; no PAC funds or business funds were used or authorized by the Board of Directors or me to be utilized in the proceedings outlined in the complaint.

On May 21, 2014, Mr. Ball amended his 2013 year-end Lobbyist Disbursement Report. The amendment lists Mr. Griffith as a lobbyist on behalf of whom Mr. Ball reports. The amended report also lists disbursements to influence MGUs, and provides a list of fifteen sources of funds used to lobby MGUs in 2013.

Additionally, Mr. Ball amended the MLBA's 2013 Annual Principal Report to increase the overall disbursements of the association by \$47,500.

Board Analysis

Lobbying is often thought of in terms of the time and money spent attempting to influence the legislative process. But, in fact, attempting to influence some types of official and local decisions made outside of the legislature also requires registration and reporting under the lobbying provisions of Chapter 10A. Minnesota Statutes section 10A.01, subdivision 21, provides that a lobbyist is an individual engaged for pay or other consideration of more than \$3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

A metropolitan governmental unit is defined by Minnesota Statutes section 10A.01, subdivision 24, as

...any of the seven counties in the metropolitan area as defined in section 473.121, subdivision 2, a regional railroad authority established by one or more of those counties under section 398A.03, a city with a population of over 50,000 located in the seven-county metropolitan area, the Metropolitan Council, or a metropolitan agency as defined in section 473.121, subdivision 5a.

Currently, the cities with a population over 50,000 qualifying as MGUs are Blaine, Bloomington, Brooklyn Park, Burnsville, Coon Rapids, Eagan, Eden Prairie, Maple Grove, Minneapolis, Minnetonka, Plymouth, and St. Paul. Within these cities are individuals who, because of the position they hold, are classified as "local officials." A local official is defined in Minnesota Statutes section 10A.01, subdivision 22, as

...a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

Considering these definitions and the facts presented in the complaints, the Board concludes that attempting to influence the official actions of the city councils of Bloomington and Burnsville, specifically the issuing of a liquor license, is an activity that requires lobbyist registration and reporting once the \$3,000 compensation threshold is exceeded.

An individual is required to file a lobbyist registration with the Board within five days after meeting the definition of a lobbyist or, if the individual is already a lobbyist for another association, within five days of being engaged by a new association. Before an individual may be penalized for failure to register as a lobbyist the Board must send a notice by certified mail notifying the individual of the need to register. If an individual fails to register within ten business days after the Board notice was sent, the Board may begin imposing a late filing fee. Minn. Stat. §10A.03.

Once a lobbyist registration is submitted, the lobbyist is obligated to either report lobbying disbursements to the Board, or to designate another lobbyist registered for the association to report disbursements. Reports are due on January 15 and June 15 of each year, covering the period from the final day of the last reporting period to fifteen days before the filing date. A lobbyist must separately list the disbursements spent lobbying to influence legislative action, lobbying to influence administrative action, and lobbying to influence the official actions of a metropolitan governmental unit.

The disbursement report must also report each original source of money received by the association represented by the lobbyist for the specific purpose of paying for lobbying efforts. The source of money is listed only if the source provided over \$500 for the purpose of lobbying. On the report due June 15, the lobbyist must update the list of subjects lobbied in the previous twelve months and indicate the type of official action the lobbyist attempted to influence.

An association represented by lobbyists is a principal and must file an annual report by March 15 providing the total amount, rounded to the nearest \$20,000, spent by the association during the preceding calendar year to influence official actions. This amount includes all direct payments to lobbyists in the state, and all other expenditures in support of efforts to influence official actions. The report separates out total expenditures to influence the Public Utilities

Commission from all other expenditures. The report does not separate the amount spent to influence the action of MGUs from legislative or administrative lobbying.

Allegations Regarding Mr. Griffith

The complaint provides six letters from Mr. Griffith sent either directly to the mayor and city council members of either Bloomington or Burnsville or to an official of one of the two cities with a cc copy sent to the mayor and city council members. Each of the communications contained information that placed Total Wine & More in a negative light, presented various reasons by which the city councils could or should deny the applications, and, at times, explicitly urged the members to deny Total Wine & More's off-sale liquor license applications.

Mr. Griffith states that he viewed his work as primarily legal research, and that he did not meet one on one with the local officials. In this case the legal research was used as the basis for the city council members to oppose the granting of a liquor license to Total Wine & More. Further, lobbying is not limited to face to face communications. These communications were clearly attempts to influence the official action of MGUs, and therefore constituted lobbying.

Mr. Griffith was already registered as a lobbyist representing several other associations at the time he sent the first of the letters provided with the complaint. Therefore, Mr. Griffith was obligated to register as a lobbyist on behalf of the MLBA no later than November 4, 2013, five days after he opened his file for the city of Bloomington on October 29, 2013.

As noted above, Mr. Griffith has retroactively registered as a lobbyist on behalf of the MLBA, authorizing Mr. Ball to report on his behalf.

Allegations Regarding Mr. Ball

Mr. Ball registered as a lobbyist on behalf of the MLBA in 2008. The complainant acknowledges this fact, but indicates that a separate registration was required for influencing the actions of MGUs. That assertion is not accurate; a lobbyist registration is filed for each association represented, not for each type of official action that will be influenced.

If Mr. Ball was involved in lobbying any MGU during the period of June 1, 2013, through May 31, 2014, he will report that fact on the lobbyist disbursement report due on June 16, 2014. This is the first opportunity for Mr. Ball to report the lobbying of MGUs because the disbursement report filed in June provides the subject areas and type of official action lobbied during the prior year.

However, the allegation that Mr. Ball was required to include disbursements to influence the actions of MGUs in his report covering the period June 1, 2013, through December 31, 2013, is accurate. As noted above, Mr. Ball has filed amended reports disclosing disbursements related to lobbying MGUs, and further, has amended his report to include the source of funding for the lobbying of MGUs.

Mr. Ball's response provides that the information was not initially reported because Mr. Griffith's work was paid for by MLBA members, and not directly from MLBA funds. The Board does not find this argument persuasive as Mr. Ball admits that the MLBA was the contact and coordinating agency for the funds. Further, the letters from Mr. Griffith consistently state that he is representing the MLBA. The MLBA cannot agree to be named as an association weighing in on an issue before an MGU, and then claim that it was only a pass through for the funds used for the lobbying effort. Indeed, the provision in Chapter 10A requiring the disclosure of other

sources of funds used by an association for a lobbying effort is in place to provide disclosure for the type of arrangement the MLBA provided to some of its members.

The MLBA was required to include all expenditures to influence official actions during calendar year 2013 in its Annual Principal Report. An amended MLBA report has been filed to include expenditures related to the lobbying of MGUs. Expenditures that occurred in 2014 will be reported by the MLBA on the annual report filed in March of 2015.

Based on the above facts and the relevant statutes, the Board makes the following:

Findings of Fact

1. Mr. Griffith's activities on behalf of the MLBA constituted lobbying the official action of metropolitan governmental units, for which he was required to register with the Board within five days of being engaged by the association.
2. Mr. Griffith did not register as a lobbyist on behalf of the MLBA within five days of being engaged by the association.
3. Because Mr. Griffith was not registered as a lobbyist for the MLBA, the disbursements made on behalf of the association during 2013 were not reported.
4. Mr. Ball was properly registered as a lobbyist on behalf of the MLBA.
5. The MLBA filed an Annual Principal Report for 2013 that failed to account for activities to influence the official actions of metropolitan governmental units in that year. This report has since been amended to properly account for Mr. Griffith's lobbying activities.
6. Mr. Griffith's failure to timely register was inadvertent and was corrected in a timely manner after being notified by the Board.
7. Mr. Ball's failure to report Mr. Griffith's disbursements on behalf of the MLBA was inadvertent, and was corrected in a timely manner after being notified by the Board.

Conclusions of Law

1. Mr. Griffith violated Minnesota Statutes section 10A.03, subdivision 1, by failing to register within five days after becoming engaged by the MLBA.
2. Mr. Griffith complied with the requirements of Minnesota Statutes section 10A.03, subdivision 3, by submitting a lobbyist registration within ten days of being notified of the need to register for the MLBA. Therefore, as provided by this statute, no late filing fee or civil penalty is imposed.
3. Mr. Griffith violated Minnesota Statutes section 10A.04, subdivision 1, by failing to file a report with the Board by January 15, 2014, or to provide the disbursement information to a reporting lobbyist for the association.
4. Mr. Ball did not violate Minnesota Statutes section 10A.025, subdivision 4, by failing to register on behalf of the MLBA.

5. The 2013 Annual Principal Report filed on behalf of the MLBA did not disclose the cost of Mr. Griffith's lobbying activities. Therefore the report did not comply with Minnesota Statutes section 10A.04, subdivision 5. The MLBA worked with Board staff to submit an amendment to correct the report upon becoming aware of the inaccuracy. Therefore, as provided in Minnesota Statutes section 10A.025, subdivision 4, no late fee or civil penalty is imposed.

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

ORDER

The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.02, subdivision 11.

Dated: June 3, 2014



Deanna Wiener, Chair
Campaign Finance and Public Disclosure Board