

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

**FINDINGS IN THE MATTER OF A COMPLAINT REGARDING  
THE (DAVE) ENGSTROM FOR SENATE COMMITTEE**

**Procedural Background**

On July 29, 2003, Kristine Madson filed a complaint with the Campaign Finance and Public Disclosure Board (the Board) against the (Dave) Engstrom for Senate Committee.

Ms. Madson alleged that in calendar year 2002, Mr. Engstrom used resources belonging to Minnesota Housing Resources, Inc. ("MHRI") to conduct campaign activities and failed to disclose these resources as either in-kind contributions or unpaid bills on his Report of Receipts and Expenditures for calendar year 2002. On August 8, 2003, Ms. Madson provided documentation in support of her complaint. Ms. Madson provided copies of MHRI credit card statements allegedly showing campaign expenditures and campaign related documents allegedly printed off of Mr. Engstrom's office computer. Ms. Madson alleged that Mr. Engstrom used MHRI's office resources, computer and credit card for campaign activities.

On July 20, 2003, Mr. Engstrom was notified of the complaint and offered an opportunity to respond. On August 13, 2003, Attorney Linda Close responded on behalf of Mr. Engstrom. Ms. Close stated that Mr. Engstrom and Ms. Madson were two of three shareholders of MHRI, and that the three shareholders are now involved in a shareholder dispute.

In response to the allegation that Mr. Engstrom used MHRI's office resources to conduct campaign activities, Ms. Close asserted that the "campaign never used any resources of MHRI for campaign activities." Ms. Close stated that MHRI routinely reimbursed Mr. Engstrom for business-related calls made on his personal mobile phone. Ms. Close stated that Mr. Engstrom did "occasionally" receive campaign-related calls on both his office and mobile phones. Ms. Close stated that when this occurred he took messages and returned these calls on his own time with his own phone.

In response to the allegation that Mr. Engstrom used MHRI's credit card, Ms. Close stated that "Dave never used the MHRI credit card for campaign activities."

In response to the allegation that Mr. Engstrom used MHRI's computer for campaign activities, Ms. Close stated that the campaign purchased a computer that was located at Mr. Engstrom's home. Ms. Close stated that every other day Mr. Engstrom backed up his campaign-related computer work on compact disc and that he took these campaign backup discs between MHRI and his campaign office. Ms. Close stated that Mr. Engstrom lost access to these discs as a result of the shareholder dispute. Ms. Close stated that the campaign-related documents provided by Ms. Madson were likely downloaded from Mr. Engstrom's backup discs. Ms. Close stated that campaign-related documents "did not originate at MHRI and were never worked on using the MHRI computer."

On September 5, 2003, Ms. Madson provided copies of campaign-related e-mails Mr. Engstrom allegedly sent and received using his MHRI e-mail account and a compact disc containing files allegedly copied from Mr. Engstrom's office computer in support of her complaint.

On September 5, 2003, in response to the allegation that Mr. Engstrom used his MHRI e-mail account for campaign purposes, Ms. Close stated “there are people who sometimes communicated with him there, rather than through the campaign e-mail address. His responses to these e-mails did not constitute a contribution by Minnesota Housing Resources, inasmuch as they did not cause any charges to that organization.”

On September 8, 2003, the Board requested additional information from Mr. Engstrom. Attorney Fred Ojile responded on behalf of Mr. Engstrom on September 16, 2003. In response to the Board’s further inquiry regarding information contained on the compact disc provided by Ms. Madson, Mr. Ojile reiterated that Mr. Engstrom kept back-up discs that were shared between his campaign, office, and home computers. Mr. Ojile stated that Mr. Engstrom “sent and received e-mail with the office e-mail address from his home computer and his campaign computer. Mr. Ojile further stated “submission of credit card receipts to the Board by the complainant and the complainant alleging that these purchases were for the campaign is not only false but unsubstantiated and amounts to a bald allegation with no corroboration whatsoever.”

On September 22, 2003, Ms. Madson sent a letter to the Board noting that Mr. Engstrom used MHRI’s fax machine to submit documents for his campaign to the Board.

The Board considered this matter in executive session at its meetings on August 27, 2003, September 17, 2003, and October 22, 2003. The Board’s decision was based upon the complaint, the documents submitted in support of the complaint, the responses, and Board records.

**Based on the record before it, the Board issues the following:**

#### **EVIDENTIARY FINDINGS**

1. Mr. Engstrom was a candidate for State Senate during the 2002 election, and registered a principal campaign committee, the (Dave) Engstrom for Senate Committee, with the Board on December 18, 2001. The (Dave) Engstrom for Senate Committee terminated its registration with the Board on February 3, 2003.
2. There is evidence that on three occasions Mr. Engstrom used MHRI’s fax machine to fax documents to the Board.
3. There is evidence that Mr. Engstrom provided the Board and other individuals with his office e-mail address for campaign-related communications.
4. There is evidence that Mr. Engstrom received campaign related calls on his office phone and his personal mobile phone. There is insufficient evidence to determine if Mr. Engstrom was reimbursed by MHRI for his campaign-related use of his personal mobile phone.
5. There is not sufficient uncontested evidence to determine if Mr. Engstrom used any MHRI resources besides the office fax machine, the office e-mail address, and the office phone for campaign purposes.
6. There is no evidence that Mr. Engstrom’s use of the fax machine, office phone or office e-mail for campaign purposes was approved or authorized by MHRI.

7. There is no evidence that the use of the fax machine, office phone or office e-mail address was either an in-kind contribution from MHRI or an approved expenditure made by MHRI.

**Based on the above Statement of the Evidence, the Board makes the following:**

#### **FINDINGS CONCERNING PROBABLE CAUSE**

1. There is probable cause to believe that the (Dave) Engstrom for Senate committee used MHRI's fax machine, MHRI's office phone, and MHRI's office e-mail address for campaign-related communications.
2. There is probable cause to believe that the (Dave) Engstrom for Senate committee was required to disclose the fair market cost of the use of MHRI's fax machine, MHRI's office phone and MHRI's office e-mail as unpaid campaign expenditures on the committee's Report of Receipts and Expenditures for calendar year 2002. If the cost exceeded \$100, Mr. Engstrom was required to itemize this expenditure.

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

#### **ORDER**

1. The Board orders Mr. Engstrom to review his records to determine the fair market value of the use MHRI's fax, MHRI's phone and MHRI's e-mail address. The fair market value should reflect the benefits the (Dave) Engstrom for Senate committee received from the use of these resources, and not the incremental cost to MHRI.
2. The Board orders the (Dave) Engstrom for Senate committee to amend its Report of Receipts and Expenditures for calendar year 2002 to disclose the cost of the MHRI fax, phone and e-mail address as unpaid campaign expenditures. If the fair market value of these unpaid expenditures exceeds \$100, Mr. Engstrom must itemize these expenditures on his report.
3. The Board orders the (Dave) Engstrom for Senate committee to reimburse MRHI for the fair market value of the use of the office phone, office fax, and office e-mail address, within thirty days of the date of this order. The committee must provide a copy of the check and accompanying letter used to reimburse MHRI.
4. The Board investigation of this matter is hereby made a part of the public records of the Board pursuant to Minn. Stat. §10A.02, subd. 11. Board staff shall provide copies of these findings to Ms. Madson, Ms. Close, Mr. Ojile and Mr. Engstrom.

Dated: October 22, 2003

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Clyde Miller, Chair  
Campaign Finance and Public Disclosure Board