

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

**FINDINGS AND ORDER IN THE MATTER OF
A COMPLAINT FILED AGAINST THE CITIZENS COMMISSION FOR THE
PRESERVATION OF AN IMPARTIAL JUDICIARY (“QUIE COMMISSION”)**

Summary of Allegations and Responses

On May 20, 2006, Greg Wersal (“Complainant”) filed a complaint with the Campaign Finance and Public Disclosure Board (“Board”) against the Minnesota Judicial Council (“Council”), Chief Justice Russell Anderson and Associate Justice G. Barry Anderson.

The Complaint alleged that the Council sponsored a two-day retreat on February 15–16, 2006. A major topic of discussion at the February, 2006 meeting of the Council were the recent decisions of the United States Supreme Court and the Eighth Circuit Court of Appeals in *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), *subsequent appeal after remand* 416 F.3d 738 (8th Cir. 2005). The Complaint alleged that the Council was acting as a political party or political fund acting on behalf of candidates for judicial office. According to the Complaint, the candidates are the incumbent judges, and that the contents and purpose of the retreat indicate that the Council “intends to take further action to assure the victory of incumbents and the defeat of ‘partisan political challenger’ [Sic] such as one endorsed by the Republican Party.”

On June 5, 2006, Complainant sent a letter to the Board stating that he wished to supplement his complaint by raising three issues: 1) the legality of a public body spending public funds on election activities for a candidate or ballot issue; 2) the actions of the Judicial Council in concert with the Minnesota State Bar Association and the coordination of “independent” campaign activities and expenditures; and 3) the actions of the Citizens Commission for the Preservation of an Impartial Judiciary (popularly known as the “Quie Commission”). Complainant also provided a research memo dated October 2000 and prepared by the League of Minnesota Cities, and three Opinions of the Attorney General, dated July 18, 1927, April 29, 1954, and July 10, 1958. The memo and Attorney General Opinions dealt with the issue of the legality of public spending on elections and ballot issues.

In the initial May 20 complaint and the June 5 letter, Complainant alleged that the Judicial Council spent public funds with the purpose of trying to reelect judicial incumbents and defeat any challengers endorsed by political parties. In the June 5 letter, Complainant further alleged that the MSBA and the Quie Commission made independent expenditures for the purpose of influencing the nomination or election of incumbent judges. In support of these allegations, Complainant submitted materials prepared by the MSBA and the Quie Commission regarding judicial selection and election in other states and in light of the *White* decision.

In the June 5, 2006 letter, Complainant stated with regard to the Quie Commission, “Even before the meetings began, we all know what the report will say -- it will recommend a retention election system for judges or possibly a straight appointment system for the selection of judges.” Complainant further stated, “In addition, it is my understanding that staff of the state court

administrators office attend all the hearings/meetings of the Quie Commission. These are the staff that serve the Minnesota Supreme Court and the Judicial Council. These staff members, I assume, are paid with public funds.” Complainant stated that Gov. Quie’s presence at the Judicial Council retreat, the membership of judges on the Quie Commission, the participation of MSBA members on the Quie Commission, and remarks of speakers at the retreat, raise several questions. Complainant questioned whether laws are being violated because public funds are being used to support a ballot question; whether the Quie Commission has spent over \$100 and failed to file with the Board; whether there is illegal coordination of activities between the MSBA, Judicial Council and Quie Commission; and whether the Quie Commission is, as described by Complainant, “a wholly owned subsidiary of the Judicial Council, acting under another name to give the appearance that this isn’t simply the judges trying to preserve their jobs?”

On June 7, 2006, former Governor Albert H. Quie responded on behalf of the Quie Commission.

In his response, Governor Quie stated that he did attend the Judicial Council retreat in February, 2006. He said, “I wanted to attend the Minnesota Judicial Council retreat in February 2006 because of the subject which was to be addressed. Primarily, it would give me an opportunity to listen to the views of the various judges, appellate and trial, in regard to the federal court decisions in ‘Republican Party of Minnesota vs. White’ and listen to the invited speakers with them.” Governor Quie was also given an opportunity to speak at the retreat. During his speech, Gov. Quie explained that he has long been interested in an impartial judiciary. He described the merit selection system for judges that he instituted as governor. He also stated his opinion about possible changes to the Minnesota Constitution relating to judicial impartiality. Governor Quie further stated, “I informed them I did not know what the commission members will decide when the hearings are over and a report is written.” Governor Quie also stated in his letter that to date, “No positions have been taken on legislative or ballot questions, but I expect we will before the end of January, 2007.” He further stated: “Also, the Citizen’s Commission has taken in no money and has made no expenditure.”

On August 14, 2006, Complainant sent a third letter to the Board, stating that he wished to supplement his complaint with two items. First, Complainant stated that in July, he personally attended a meeting of the Quie Commission that was open to the public. Complainant further stated, “Again, the whole purpose of the Quie Commission is to push for a ballot initiative to change the judicial election system to an appointed judicial system. A member of the Quie Commission told me that the members of the Quie Commission have been chosen, in large part, by the Minnesota Bar Association.” Second, Complainant attached an article from the August 7, 2006 “Minnesota Lawyer” magazine. The article described an “affirmation” that the MSBA is sending to all judicial candidates. The affirmation contains certain voluntary pledges relating to the conduct of judicial campaigns, that candidates are asked to consider making. Since this part of the letter does not make specific allegations regarding the Quie Commission, it is not relevant to these findings.

The Complaints against the Minnesota Judicial Council, Chief Justice Russell Anderson, Associate Justice G. Barry Anderson, and the MSBA are addressed in separate Findings and

Orders relating to those Complaints. Therefore, these Findings relate only to the Complaint regarding the activities of the Quie Commission.

The Board considered this matter in executive session at its meetings on June 7, 2006 and August 15, 2006. The Board's decision was based on information provided with the Complaint of May 20, 2006, Complainant's supplemental letters of June 5 and August 14, 2006, and the June 7, 2006 response from Mr. Quie.

Relevant Statutes

1. Minn. Stat. §10A.01, subd. 4. **Approved expenditure.** "Approved expenditure" means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate's principal campaign committee, or the candidate's agent. An approved expenditure is a contribution to that candidate.

2. Minn. Stat. §10A.01, subd. 7. **Ballot question.** "Ballot question" means a question or proposition that is placed on the ballot and that may be voted on by all voters of the state. "Promoting or defeating a ballot question" includes activities related to qualifying the question for placement on the ballot.

3. Minn. Stat. §10A.01, subd. 9. **Campaign expenditure.** "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

4. Minn. Stat. §10A.01, subd. 18. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. An expenditure by a political party or political party unit in a race where the political party has a candidate on the ballot is not an independent expenditure.

5. Minn. Stat. §10A.01, subd. 27. **Political committee.** "Political committee" means an association whose major purpose is to influence the nomination or election of a candidate or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

6. Minn. Stat. §10A.01, subd. 28. **Political fund.** "Political fund" means an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee or party unit, if the accumulation is collected or expended to influence the nomination or election of a candidate or to promote or defeat a ballot question.

7. Minn. Stat. §10A.12. **Political funds.**

Subdivision 1. **When required.** An association other than a political committee or party unit may not contribute more than \$100 in aggregate in any one year to candidates, political committees, or party units or make any approved or independent expenditure or expenditure to promote or defeat a ballot question unless the contribution or expenditure is made from a political fund.

8. Minn. Stat. §10A.14. **Registration.**

Subdivision 1. **First registration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must register with the board by filing a statement of organization no later than 14 days after the committee, fund, or party unit has made a contribution, received contributions, or made expenditures in excess of \$100.

9. **10A.17 Expenditures.**

Subd. 4. **Independent expenditures.** An individual, political committee, political fund, principal campaign committee, or party unit that independently solicits or accepts contributions or makes independent expenditures on behalf of a candidate must publicly disclose that the expenditure is an independent expenditure. All written communications with those from whom contributions are independently solicited or accepted or to whom independent expenditures are made on behalf of a candidate must contain a statement in conspicuous type that the activity is an independent expenditure and is not approved by the candidate nor is the candidate responsible for it. Similar language must be included in all oral communications, in conspicuous type on the front page of all literature and advertisements published or posted, and at the end of all broadcast advertisements made by that individual, political committee, political fund, principal campaign committee, or party unit on the candidate's behalf.

Based on the above Statement of Facts and Relevant Statutes, the Board makes the following:

Findings Regarding Probable Cause

1. There is no evidence that the Minnesota Citizen's Commission For The Preservation of An Impartial Judiciary has made a contribution, received contributions, or made expenditures in excess of \$100.

2. There is no evidence that the Minnesota Citizen's Commission For The Preservation of An Impartial Judiciary has independently solicited or accepted contributions or made independent expenditures on behalf of a candidate or in support of or in opposition to a ballot question.

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

Order

1. The allegation that the Minnesota Citizen's Commission For The Preservation Of An Impartial Judiciary violated the provisions of the Minn. Stat. §10A.14 by failing to register as a political committee, political fund, political party or party unit within 14 days after making expenditures in excess of \$100 is dismissed.

2. The allegation that the Minnesota Citizen's Commission For The Preservation Of An Impartial Judiciary violated the provisions of Minn. Stat. §10A.17 by soliciting or accepting contributions or making independent expenditures on behalf of a candidate is dismissed.

2. The Board's 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 is directed to forward copies of these Findings to Greg Wersal and Governor Albert H. Quie.

Dated: August 15, 2006



Bob Milbert, Chair

Campaign Finance and Public Disclosure Board